



EASTERN DISTRICT ECF NEWS

SECOND QUARTER

Volume 10 Issue 2

CASE FILINGS 2009

As of April 7, 2009, 6,683 bankruptcy cases have been filed electronically.

- Chapter 7 - 5,364
- Chapter 13 - 1,227
- Chapter 11 - 90
- Chapter 15 - 2

NEW PROCEDURES

Issuing A Summons in An Adversary Case

Effective March 30, 2009, it is no longer necessary to submit a summons via e-mail for newly filed adversary cases. The e-mail addresses where filers normally send the summons have been deactivated. The Court will complete and docket the summons. Once docketed, the filer will receive an electronic notification that the summons has

been docketed by the Court. Plaintiff's counsel should then download the summons (for the purpose of service) from the e-mail notification, and electronically file an Affidavit of Service using the "Summons Service Executed" event. For the issuance of a supplemental summons, the filer should electronically file a letter on the adversary case requesting the Court issue a supplemental summons.

Note: The type of summons specific to Judge Trust's adversary case is entitled **Summons in An Adversary Case**. The **Summons and Notice of Pre-trial Conference** is used by all other judges in the Eastern District Bankruptcy Court.

Notice of Appearance and Request for Notice

An additional step has been added to complete the docketing procedure when entering the Notice of Appearance and Request for Notice. Filers must not bypass the screen that requires the entry of the name of the creditor and the complete

address of the law firm or company as they appear on the Notice of Appearance.

NEW ECF BANKRUPTCY EVENTS

Two events have been added to ECF Bankruptcy Events/Other. These events are in conjunction with the filing of the new Forms B25 and B25C, the Periodic Report on Related Entities Regarding Value, Operations and Profitability of Entities in Which the Estate Holds a Substantial or Controlling Interest (Periodic Report) (Form B25) and the Small Business Monthly Operating Report (Operating Report) (Form B25C) (effective date December 2008).

On the Periodic Report, the Committee Notes state, "... It implements § 419 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005), which requires a chapter 11 debtor to file periodic reports on the profitability of any entities in which the estate holds a substantial or controlling interest. The form is to be used when required by Bankruptcy Rule 2015.3, with such variations as may be approved by the court pursuant to subdivisions (d) and (e) of that rule. The form includes instructions and examples of the types of information needed to complete it".

On the Operating Report, the Committee Notes state, "... It implements §§ 434 and 435 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub.

L. No. 109-8, 119 Stat. 23 (April 20, 2005), which provided for rules and an official form to assist small business debtors in chapter 11 cases to fulfill their responsibilities under § 308 of the Code, a provision added by the 2005 Act. The form directs the debtor to disclose the information required under § 308 and resembles those developed earlier by the United States trustees for use in supervising debtors in possession in chapter 11 cases".

SPECIAL REQUEST TO CREDITORS FILING REAFFIRMATION AGREEMENT

The electronic filing of reaffirmation agreements is now available to limited access password holders. Creditors who frequently file reaffirmation agreements may also request a Limited Password. If at all possible, when a creditor without a Limited Password is filing a Reaffirmation Agreement, it would be less burdensome to the Court if the creditor files the document in a portable document format (PDF) on a diskette, CD or DVD. Creditors should continue to submit a paper copy **with** the diskette, CD or DVD in the event there is a problem with the diskette, CD or DVD. Signatures should be "s/", for example, s/John Smith (see Signatures under FAQs) on the Court's website:

http://www.nyeb.uscourts.gov/ecf_faq.html

The signed original Reaffirmation Agreement

must be kept in the creditor's office. Creditors are encouraged to download the interactive PDF Reaffirmation Agreement from the Local or Official Bankruptcy Forms from the Court's website:

<http://www.nyeb.uscourts.gov/forms.html>

Before completing the form, remember to save it to a diskette, CD or DVD. The Debtor's attorney must also remember to check one of the appropriate boxes at the top of the first page of the Reaffirmation Agreement.

ELIMINATION OF DUPLICATE NOTICES IN CASES WITH JOINT DEBTORS

Effective February 23, 2009, a new Bankruptcy Noticing Center (BNC) feature eliminates the mailing of duplicate notices to joint debtors at the same address. A single copy of each notice in a jointly-addressed envelope will be sent to both debtors, unless a joint debtor files a "Separate Request for Notice" with the Court requesting that each spouse receive a separate copy of all notices.

UPDATE SOFTWARE

As a result of the release of CM/ECF Version 3.3.1 and version upgrades on computer software applications, users must update their software products to complete the electronic process for filing documents.

Adobe Software users are encouraged to upgrade their Adobe Acrobat Reader to the latest version (Adobe 9) to access the Schedules of Hearings published to the website for each judge. The latest Schedules of Hearings were created using Adobe 9. Users who are still using Adobe Acrobat Reader Version 5 will not be able to read the Schedules of Hearings. Attorneys who use Bankruptcy Software must remember to upgrade the software to be in compliance with the various changes with the Release of CM/ECF Version 3.3.1 on February 27, 2009.

WIRELESS INTERNET ACCESS AT THE BROOKLYN COURTHOUSE

A wireless network for Internet access is now available at the Brooklyn Courthouse. This service provides attorneys with the ability to communicate with their offices and access relevant websites. It is accessible within the Attorney Lounge (Room 2506). This service will be coming to the Central Islip Courthouse at a later date.

HELP DESK QUESTION OF THE MONTH

An attorney inquires, "What if I have to file an emergency petition and CM/ECF is down"?

Answer: Scheduled down time is 5:30 to 5:45 a.m. every day. In addition, other

scheduled down times are posted on the ECF login screen. Emergency petitions must always be filed at the Clerk's Office, and **not** electronically, whether or not the system is down. If filed at the Clerk's Office when the system is down, the case will be opened as a Miscellaneous Proceeding. When the system comes up, all filing information will be transferred to the bankruptcy case. If the office is closed and the system is down, documents can be filed at the District Court drop box, 225 Cadman Plaza East, Brooklyn, NY. The drop box is in the lobby and there is 24-hour access to the building. The Central Islip drop box is located at 290 Federal Plaza, Central Islip, NY, in the lobby near the security station and is available to the public from 7:00 a.m. to 7:00 p.m. daily. Otherwise, documents should be filed at the Brooklyn District Court drop box location.

TIPS ON HOW TO USE ECF PROFICIENTLY

The DOs and DON'Ts is a new feature to this newsletter. It will give tips on how to use the customized procedures for this bankruptcy court when electronically filing various documents. This issue will also provide tips on how to file Amended Schedules.

HOW TO FILE AMENDED SCHEDULES

When filing Amended Schedules D, E or F

- Select from the Available Events, “Amended Schedule(s) Statement(s) Affidavit LR-1009-1(a) (Fee Due)” located under the Bankruptcy Events/Other.
- Upload the documents – include the Affidavit Pursuant to Local Rule 1009-1(a) to inform the Clerk’s Office of the creditors that are added or deleted to the Schedules to be amended and the Supplemental Matrix. The Supplemental Matrix must show only the creditors that are added or deleted. Filers may upload the Affidavit of Service. Failure to select the *Fee Due* event when adding or deleting a creditor will result in a phone call from the Case Administrator requesting the document be re-filed using the correct event.
- To amend Schedules A, B, C, G, H, I and J, ECF filers will select the Bankruptcy Event/Other - “Amended Schedule(s)... (No Fee)”. There is **no** need to file an Affidavit Pursuant to LR 1009-1(a). Filers are strongly encouraged to retrieve the document from the Court’s website to upload, if this form is not a part of

the filer's bankruptcy software. Upload the Schedules and any other amended document, such as the Amended Statement of Financial Affairs, etc., normally uploaded with the petition. Filers may upload the Affidavit of Service.

**SOMETIMES YOU DO
AND
SOMETIMES YOU DON'T**

DO link the Letter of Adjournment of pre-trial conference to the adversary complaint.

DO link the Letter of Adjournment to the original motion by placing a check mark in the box "Refer to existing event(s)?"

DO enter the same information from the attached documents to the docket entries.

DO check the debtor's profile before submitting the petition to make sure the name, address, and Social Security or Employee Identification Number are correct.

DO file Pay Statements using portrait style of printing and remember to redact the Social Security Number.

DON'T list the same creditor with the same address on the Creditor's Mailing List more than once.

DON'T link documents to hearing entries.

DON'T send a copy of a Proof of Claim to court if it was electronically filed.

DON'T apply for a Limited Password when only filing one Proof of Claim. Proofs of Claim may be filed over the Internet, or on a diskette, CD, DVD or in paper form.

DON'T use all UPPER case letters when docketing.

DON'T electronically file Form 21 as the complete Social Security Number should **not** be disclosed.

NOTICE OF PRESENTMENTS

After electronically filing a Notice of Presentment, filers must adhere to the policy of mailing a chambers' copy to the Clerk's Office. The proposed order must be sent to the judge's e-mail order box in compliance with the guidelines for submitting e-orders. The guidelines can be found on the Court's website at:

http://www.nyeb.uscourts.gov/ecf_gen_admin_order.html

**TO VIEW OR PRINT THE
SERVICE LIST TO SEND
NOTICES**

- Filers should go to the Utilities category.
- Select the Utility Event - Mailings.
- Select - Mailing Info for a Case.
- Enter the case number (i.e. 09-40063) and Submit Mailing Information for Case. The next screen will provide the following information:
- **Electronic Mail Notice List** has all parties who are currently on the case (at the time the list is viewed) to receive e-mail notice.
- **Manual Notice List** has the parties who are not on the e-mail notice service list and need to receive manual notice (for example, *pro se* debtors or an attorney without an ECF password who is a party to the case).
- **Mailing Matrix or Creditor Mailing List** has all creditors and parties in the case and is the complete service list.
- **Creditor List** is the same list of creditors if user were to "Run

Query". It shows the type of creditors, such as **Creditor, Administrative, Notice of Appearance, Limited Creditor,** etc.

**EASTERN DISTRICT ECF
NEWSLETTER**

Look for the next issues in July and September. This newsletter and previous issues are available for online viewing at: http://www.nyeb.uscourts.gov/ecf_news.html

SUGGESTIONS

If you have suggestions for future newsletter subjects, send an e-mail to: Margaret_Merritt@nyeb.uscourts.gov

FOR COPIES

If you would like to receive a copy of this newsletter, send an e-mail to: Paula_Mazziotti@nyeb.uscourts.gov with the words ***Subscribe ECF Newsletter*** in the subject field.