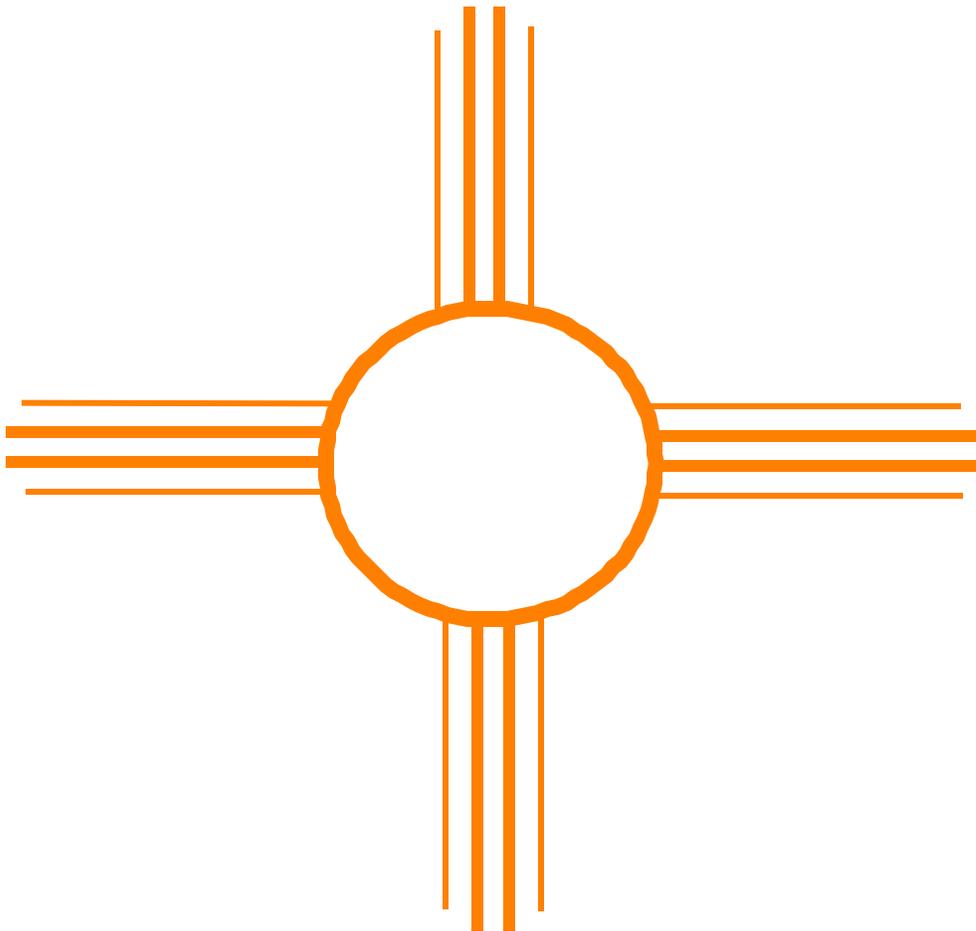


LOCAL RULES



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

Office of the Clerk
United States Bankruptcy Court
District of New Mexico
Post Office Box 546
Albuquerque, NM 87103-0546
505-348-2500

Local Bankruptcy Rules - District of New Mexico

Cite as NM LBR _____

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RULE 1001-1 SCOPE OF RULES

These local rules govern procedure in bankruptcy cases and proceedings, whether heard by a bankruptcy judge or district judge.

RULE 1002-1 PETITION - DISCLOSURE OF NON-FILING SPOUSE

At the time of filing of a petition, an individual debtor shall file a separate statement containing the name, address and social security number of any non-filing spouse, or certifying that the debtor has no spouse. An individual debtor failing to file such a statement will be required to notify all creditors of this information at the debtor's expense.

Reference: 11 U.S.C. §342(a).

RULE 1007-1 LISTS, SCHEDULES AND STATEMENTS - NON-FILING SPOUSE

At the time of filing schedules and statement of affairs, an individual debtor with a non-filing spouse shall file a separate statement certifying that to the best of the debtor's knowledge, information and belief they disclose all assets, liabilities, income and expenses of both spouses.

RULE 1015-1 JOINT ADMINISTRATION/CONSOLIDATION

A motion for consolidation or joint administration shall be heard by the judge assigned to the case bearing the lowest number.

Reference: Fed. R. Bankr. P. 2009, 7042, 9013, 9014; 11 U.S.C. § 302.

RULE 1020-1 CHAPTER 11 SMALL BUSINESS CASES - GENERAL

a. Election to Be Considered a Small Business in a Chapter 11 Reorganization Case. In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election upon the filing of a proposed plan and disclosure statement, or within 60 days after the date of the order for relief, whichever is earlier, or by a later date as the court, for cause, may fix.

b. Approval of Disclosure Statement. If the debtor has made a timely election to be considered a small business in a chapter 11 reorganization case, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with Bankruptcy Rule 3016. On or before conditional approval of the disclosure statement, the court shall:

fix a time within which the holders of claims and interests may accept or reject the plan;

fix a time for filing objections to the disclosure statement;

fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

fix a date for the hearing on confirmation.

c. Application of Bankruptcy Rule 3017. If the disclosure statement is conditionally approved, Bankruptcy Rules 3017(a), (b), (c) and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of Bankruptcy Rule 3017(d).

d. Objections and Hearing on Final Approval. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Bankruptcy Rule 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States Trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

RULE 2003-1 MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

Requests for change of time and location of § 341(a) meetings shall be addressed to the United States Trustee.

RULE 2007.1-1 TRUSTEES AND EXAMINERS (Ch. 11)

Election of Trustee in a Chapter 11 Reorganization

a. Request for an Election. A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case shall be filed and transmitted to the United States Trustee in accordance with Bankruptcy Rule 5005 within the time prescribed by 11 U.S.C. § 1104(b). Pending court approval of the person elected, a person appointed trustee under § 1104(d) shall serve as trustee.

b. Manner of Election and Notice. An election of a trustee under §1104(b) shall be conducted in the manner provided in Bankruptcy Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under § 1104(b) shall be given in the manner and within the time provided for notices under Bankruptcy Rule 2002(a). A proxy for the purpose of voting in the election may be solicited by a committee appointed under § 1102 and by any other party entitled to solicit a proxy under Bankruptcy Rule 2006.

c. Application for Approval of Appointment and Resolution of Disputes. If it is not necessary to resolve a dispute regarding the election of the trustee or if all disputes have been resolved by the court, the United States Trustee shall promptly appoint the person elected to be trustee and file an application for approval of the appointment of the elected person under Bankruptcy Rule 2007.1(b), except that the application need not contain names of parties in interest with whom the United States Trustee has consulted. If it is necessary to resolve a dispute regarding the election, the United States Trustee shall promptly file a report informing the court of the dispute. If no motion for the resolution of the dispute is filed within 10 days after the date of the creditors' meeting called under § 1104(b), a person appointed by the United States Trustee in accordance with § 1104(d) and approved in accordance with Federal Bankruptcy Rule 2007.1(b) shall serve as trustee.

RULE 2082-1 CHAPTER 12 - GENERAL

The debtor in a chapter 12 case shall, within 5 days of filing the plan, call the judge's chambers and obtain a confirmation hearing and prepare, serve and file timely notice of the hearing.

RULE 2090-1 ATTORNEYS - ADMISSION TO PRACTICE

a. Admission to Practice. Admission to practice before a bankruptcy judge is governed by the local rules of the United States District Court for the District of New Mexico except as provided in paragraph (b) below.

b. Non-resident Attorneys. All attorneys residing outside the District who are members in good standing of the bar of any state may participate in a particular case or proceeding before this court without the association of a resident member of the bar of this court, provided, however, that in any case or proceeding in which the court deems it necessary for the purpose of appearance, or ready availability, or otherwise in the interest of expediting disposition of the case or proceeding, the court may require non-resident counsel to associate a resident member of the bar of this court. A non-resident attorney shall file a motion to be admitted *pro hac vice*, which shall contain the statement that the attorney has read and is familiar with these rules.

c. Temporary Waiver of Membership. An attorney who is eligible for membership in the bar of the United States District Court for the District of New Mexico and who has applied but who has not yet been admitted, may, with leave of court, appear and plead in specific cases.

RULE 2091-1 ATTORNEYS - WITHDRAWALS

a. Withdrawal of Attorneys. An attorney may withdraw from representation of a client:

(1) With Consent of Client: The request to withdraw shall show the consent of each party represented by the attorney, and the substitution of another attorney, or the appearance *pro se* of each unrepresented party with mailing addresses and telephone numbers, or

(2) Without Consent of Client: A written motion must be filed with proof of service on the party or parties represented by the attorney, with notice to the party or parties that they must serve and file objections within ten days from the date of service of the motion, or the attorney may submit to the court an *ex parte* order

permitting the attorney's withdrawal. The motion shall also be served on such other parties as the court may direct. After the attorney has been authorized to withdraw, the party or parties previously represented shall be deemed to be appearing *pro se*, until a new attorney enters an appearance.

Reference: See NM LBR 9010-2, Attorneys - Representation of Corporations or Partnerships.

b. Death or Removal of an Attorney. When an attorney dies or ceases to act as an attorney under circumstances not otherwise provided herein, the clerk or a party in interest, by written notice, shall notify the party or parties represented by the attorney to retain another attorney or to appear in person in any further matters. Such notice may be served upon such party or parties in person or given by mailing the notice to the party's last known address. If after 20 days from the date of service of such notice another attorney does not enter an appearance, the action shall proceed as if the party or parties were appearing *pro se*.

RULE 3015-3 CHAPTER 13 - CONFIRMATION

The debtor in a chapter 13 case shall give notice of the deadline for filing objections to confirmation of the plan within 10 days of filing the plan. If objections to confirmation of the plan are filed, the debtor shall, within 5 days after the deadline for filing objections, call the chapter 13 trustee and obtain a hearing and prepare, serve and file notice of the hearing.

RULE 4001-1 AUTOMATIC STAY - RELIEF FROM

a. Motions Pursuant to 11 U.S.C. § 362. A motion for relief from the automatic stay shall be clearly and distinctly titled as such. Motions for relief from the automatic stay shall not be combined with any other request for relief. Failure to comply with this rule shall be deemed a waiver of the termination provision of 11 U.S.C. § 362(e).

b. Commencement of the 30-day Period Pursuant to 11 U.S.C. § 362(e). Until a hearing has been requested and notice of a hearing has been served, the 30-day termination provision of 11 U.S.C. § 362(e) shall not commence.

RULE 5001-1 COURT ADMINISTRATION

The clerk of the bankruptcy court shall prepare, distribute and maintain a practice and procedure guide containing procedural instructions, copy requirements, fee schedules, standard forms of pleadings and similar information. The guide may include guidelines, policy statements, suggested forms and similar information provided by the United States Trustee. Publication and revision of the guide shall be exempt from the requirements for the adoption of local rules.

RULE 5003-1 CLERK - GENERAL/AUTHORITY

The clerk of the bankruptcy court shall maintain the files of all bankruptcy cases and proceedings, whether assigned to a district judge or bankruptcy judge.

Reference: Fed. R. Bankr. P. 9001(1); but see Fed. R. Bankr. P. 8006, 8007.

RULE 5005-1 FILING PAPERS - REQUIREMENTS

Any filing placed in the court's drop box before 8:00 am will be deemed filed at midnight the previous business day.

RULE 5005-4 ELECTRONIC FILING

a. Facsimile Filings. Any party may, upon a showing of good cause, and with prior judicial approval, file any paper by facsimile to a court facsimile machine. No special showing or judicial approval is required for facsimile filing through an intermediary. Any required filing fee must be paid to the clerk of the bankruptcy court at or before the time of the facsimile filing.

b. Filing by Electronic Transmission. A party may file any paper using electronic transmission in accordance with guidelines when established by the court.

RULE 5071-1 CONTINUANCE

A motion for continuance of a hearing shall not be granted based only on the agreement of counsel. No such motion will be granted other than for good cause shown and upon such terms as the court may impose.

RULE 5073-1 PHOTOGRAPHY, RECORDING DEVICES AND BROADCASTING

a. Prohibition Against Cameras, Transmitters, Receivers and Recording Equipment. No cameras, transmitters, receivers or recording equipment may be brought into or used in any courtroom or court environs. Environs include:

the entire floor where a bankruptcy courtroom is located;

the entire floor where a bankruptcy judge's chambers are located; and

the entire floor where any meeting of creditors is located.

b. Authority to Impound Equipment. The U.S. Marshal Service may impound the above-described equipment brought into the courtroom or court environs.

c. Exemptions from Prohibition. The prohibitions of this rule do not apply to:

a stenographic or recording device used by an official court reporter, trustee, or other authorized court personnel or personnel of the Office of United States Trustee;

equipment brought into court during investitive, ceremonial or naturalization proceedings;

a telephone or pager if turned off while court is in session;

a lap-top computer as long as it does not make noise or interfere with court proceedings; or

a device required because of a person's disability.

RULE 7005-1 SERVICE AND NOTICE BY ELECTRONIC TRANSMISSION

The clerk or any other person may serve and give notice by electronic transmission, in lieu of service and notice by mail, to any person who has a written request on file with the clerk of the bankruptcy court to receive service and notice by electronic transmission. The request remains effective in all subsequent litigation in this district involving the person who filed the request; however, any person may withdraw his or her request by sending written notice to the clerk. Service and notice are complete when the sender obtains electronic confirmation of receipt of the transmission. Electronic transmission to any person who has a written request on file with the clerk to receive service and notice by electronic transmission is the equivalent of service by delivery in accordance with Bankruptcy Rules 7005 and 9022. Service by electronic transmission upon such a person after 5:00 pm on any business day is effective the following business day.

Reference: Fed. R. Bankr. P. 9036.

RULE 7026-1 DISCOVERY - GENERAL

a. Rules Governing Discovery in Contested and Adversary Matters. This rule governs the applicability of the December 1, 1993, amendments to Rule of Civil Procedure 26, which modify Bankruptcy Rules 7026 and 9014.

(1) Rule of Civil Procedure 26(a)(1) shall not apply in contested and adversary matters unless a judge so orders.

(2) Discovery of insurance agreements may be had under the provisions of former Rule of Civil Procedure 26(b)(2):

Insurance Agreements. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of

this paragraph, an application for insurance shall not be treated as part of an insurance agreement.

(3) The timing of disclosures relating to expert witnesses pursuant to Rule of Civil Procedure 26(a)(2) and pretrial preparation pursuant to Rule of Civil Procedure 26(a)(3) shall be established by court order in each adversary proceeding. These two subsections shall not apply in contested matters.

(4) The first sentence of Rule of Civil Procedure 26(d) shall not apply in contested and adversary matters unless a judge so orders.

(5) Rule of Civil Procedure 26(f) shall not apply in contested and adversary matters unless a judge so orders.

b. Form of Discovery Requests. A party, when serving the following documents, must provide space, when not on a diskette, for an answer, response or objection after each:

interrogatory;

request for production of documents or things; or

request for admission.

Regardless of the number of sets, a party must sequentially number:

interrogatories;

requests for production of documents or things; or

requests for admission.

For example, the first set of interrogatories is numbered 1-10; the same party's second set of interrogatories is numbered 11-20, etc.

The party answering, responding or objecting to a discovery request must either set forth the answer, response or objection in the space provided or quote fully each interrogatory or request before any answer, response or objection.

c. Non-filing of Discovery Materials.

(1) Interrogatories, requests for production or inspection, requests for admission and responses thereto are served upon other parties but are not filed with the court.

(2) Notice to take a deposition or proof of service of such a notice is not filed with the clerk except when the adequacy or content of the notice is the basis for a motion, or response to a motion, relating to Bankruptcy Rule 7030 or 7031.

(3) Deposition transcripts are not filed unless otherwise ordered.

(4) A certificate of completion of deposition is not filed unless otherwise ordered.

RULE 7030-1 DEPOSITIONS

a. Notice of Deposition. Counsel must confer in good faith regarding scheduling of depositions before serving notice of deposition. Service of notice of deposition in accordance with Bankruptcy Rule 7030 must be made at least 14 calendar days before the scheduled deposition. The time for serving notice may be shortened by agreement of all parties or by court order.

b. Non-appearance at Deposition. Failure of a deponent to appear at the time and place designated may be regarded as a willful failure to appear pursuant to Bankruptcy Rule 7037 or contemptible conduct pursuant to Bankruptcy Rule 9016:

unless a motion for protective order and a notice of non-appearance are served at least five calendar days before the scheduled deposition; or

if the court finds that the motion is frivolous or for dilatory purposes.

c. Deposition Fees. A court reporter must certify in a deposition transcript the reporter's fees for the deposition.

RULE 7054-1 COSTS - TAXATION/PAYMENT

a. Motion to Tax Costs. A motion to tax costs must be filed and served on each party within thirty calendar days of entry of judgment. Failure to file and serve within this time period constitutes a waiver of a claim for costs. The motion must include:

an itemized cost bill documenting costs and including receipts as required by rule or statute; and

a party's affidavit that the costs claimed are allowable by law, correctly stated, and necessary to the litigation.

A claim for attorney's fees or other expenses not taxable in accordance with 28 U.S.C. § 1920 must be made in a separate motion.

b. Transcripts. The cost of an original transcript of a court proceeding is taxable when requested by a party and authorized by the court before transcription.

c. Deposition Costs.

(1) Reporter's Transcript Fees. The reporter's charge for the original or a copy of a deposition transcript is taxable when the deposition is reasonably necessary to the litigation.

(2) Reasonably Necessary to the Litigation. A deposition is reasonably necessary to the litigation when:

a substantial portion of the deposition is admitted into evidence or used at trial for impeachment purposes;

the deposition was used by the court in ruling on a motion for summary judgment; or

the court so determines.

d. Witness Costs.

(1) Lay Witness.

(A) The rates for witness fees, mileage, and subsistence

are set by statute and are taxable if the witness testifies at trial or at a deposition found reasonably necessary to the litigation.

(B) The witness will be paid the smaller of:

mileage for the distance from the witness's residence to court; or

the *per diem* specified by 28 U.S.C. § 1821.

(C) The request for witness costs must be itemized, separating:

witness fees;

mileage; and

allowance for subsistence.

(D) A party will not receive a witness fee, mileage or allowance for subsistence.

(2) Expert Witness Fees.

An expert witness fee is not taxable under 28 U.S.C. § 1920 unless the court, *sua sponte* or on motion by a party, appoints the expert and approves the fee amount. An expert witness not appointed by the court will be paid the same fee as a lay witness.

e. Interpreter and Translator Fees. An interpreter's fee or translator's fee is taxable if:

the cost of the witness whose testimony is interpreted or translated is taxable; or

the translated document is admitted into evidence.

f. Copies of Papers. The cost for copying an exhibit is taxable when the exhibit is requested by the court or when the copy is admitted into evidence in place of an original.

g. Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of a photograph, 8" x 10" in

size or less, is taxable if the photograph is admitted into evidence. The following costs are not taxable unless the court otherwise orders:

photographs larger than 8" x 10";

costs of models; or

the cost of compiling summaries, computations, or statistical comparisons.

h. Jury Cost Assessment. All jury costs, mileage and *per diem* allowances are taxed equally to all parties when a jury trial is settled or otherwise disposed of:

in advance of trial

during trial, but prior to verdict.

No assessment will be made if the clerk is notified of the settlement before noon on the business day before the action is set for trial or if good cause is shown.

RULE 7056-1 SUMMARY JUDGMENT

The moving party shall file with the motion a written memorandum containing a short, concise statement in support of the motion with a list of authorities relied upon. A motion for summary judgment filed without the required written memorandum may be summarily denied. A party opposing the motion shall, within 20 days after service of the motion, file a written memorandum containing a short, concise statement in opposition to the motion with authorities. If no such responsive pleading is filed, the court may grant the motion for summary judgment. The moving party may, within ten days after the service of such memorandum, file a written reply memorandum.

The memorandum in support of the motion shall set out as its opening a concise statement of all of the material facts as to which movant contends no genuine issue exists. The facts shall be numbered and shall refer with particularity to those portions of the record upon which movant relies.

A memorandum in opposition to the motion shall contain a concise

statement of the material facts as to which the party contends a genuine issue does exist. Each fact in dispute shall be numbered, shall refer with particularity to those portions of the record upon which the opposing party relies, and shall state the number of the movant's fact that is disputed. All material facts set forth in the statement of the movant shall be deemed admitted unless specifically controverted.

RULE 7067-1 REGISTRY FUND

Orders for disbursement from the court registry shall set out the payee's name, address, and social security number or employer identification number and the amount of principal and interest to which the payee is entitled, or a means by which the clerk may ascertain the same.

RULE 9004-1 PAPERS - REQUIREMENTS OF FORM

The clerk of the bankruptcy court shall determine the form and number of copies of petitions, lists, schedules, statements, pleadings, exhibits and other papers to be filed and the manner of their assembly and disposition.

RULE 9004-2 CAPTION - PAPERS, GENERAL

Every paper filed shall be captioned:

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

and filed with the clerk of the bankruptcy court. The docket number shall include the initials of the assigned bankruptcy judge or district judge.

Reference: Fed. R. Bankr. P. 1005, 5005, 7010, 9001(1), 9009; Official Forms.

RULE 9006-1 TIME PERIODS

A motion for enlargement of time shall recite grounds for the motion and the original time set, any previous enlargement sought or granted, and the additional time sought. A motion for reduction of time shall recite grounds for the motion and the means by which affected parties shall receive or have received fair and adequate notice.

RULE 9010-1 ATTORNEYS - NOTICE OF APPEARANCE

An attorney of record or a party appearing *pro se* shall have a continuing duty to notify the clerk, in writing, of all changes in mailing address and telephone number.

RULE 9010-2 ATTORNEYS - REPRESENTATION OF CORPORATIONS OR PARTNERSHIPS

A corporation or partnership must be represented by an attorney authorized to practice before this court for all purposes except filing proofs of claim or participation in a meeting of creditors.

RULE 9011-1 ATTORNEYS AS SURETY

No attorney shall be accepted as a surety for costs, or as surety on any appearance bond, appeal bond or other bond which may be given in any case pending in this court in which the attorney is counsel.

RULE 9011-2 PRO SE PARTIES

Except by leave of the court, a party who is represented in a case by an attorney may not appear *pro se* or file papers.

RULE 9011-4 SIGNATURES

The court will treat a duplicate signature as an original signature.

RULE 9013-1 MOTION PRACTICE

a. Form of Motions. The title of a motion shall describe the relief sought.

Reference: See also NM LBR 4001-1(a), Motions Pursuant to 11 U.S.C. § 362.

b. Concurrence of Affected Party. Unless a motion requires notice to all creditors, is governed by Bankruptcy Rule 4001, or the court for cause waives this requirement, movant shall determine whether or not a motion will be opposed. If the motion will not be opposed, an order approved by the affected party or counsel therefor shall accompany the motion. If the motion will be opposed, the motion shall recite the attempt made to obtain the concurrence of the opposing party and the result thereof. Movant shall not assume that the nature of the motion obviates the need for a good faith request for concurrence from the opposing party.

c. Procedure to Secure Hearing; Disposition With or Without Hearing. With respect to a motion, other than one which may be heard *ex parte*, the movant shall secure a hearing or disposition without hearing by one of the following three procedures:

(1) The movant shall file with the motion a notice, including a certificate of service, identifying the motion and describing the relief sought, stating that if no objection is timely filed with the clerk and served upon the movant, the court may enter an order granting the relief without hearing. Unless otherwise provided by the Federal Rules of Bankruptcy Procedure or unless extended or shortened by order of the court, the time for filing an

objection shall be 20 days. If an objection is filed, the movant shall promptly request a hearing as provided in subsection (2), below. If no objection is filed and served, the movant shall promptly submit a proposed form of order, reciting the notice given and the expiration of the time to object, in lieu of the default procedure set out in Fed. R. Bankr. P. 7055. This procedure is not applicable to motions in adversary proceedings.

(2) Contemporaneously with filing the motion or forthwith upon service of an objection to the motion, the movant shall call the judge's chambers and request a hearing or file a request for hearing substantially conforming to the local form thereof. Upon receiving a hearing date and time, the movant shall prepare, serve and file a notice of the hearing.

(3) With permission of the court, a hearing may be obtained prior to filing a motion, such that notice of the hearing may be sent with the motion.

d. Motions Automatically Set for Preliminary Hearing. Except in adversary proceedings, all motions shall be set for preliminary, rather than final, hearing unless otherwise requested and ordered by the court. Testimony and exhibits shall not be received at a preliminary hearing. Counsel shall confer prior to the hearing and shall be prepared to advise the court of the likelihood of settlement, the disputed and undisputed facts, their legal theories, anticipated discovery, witnesses, exhibits, and duration of a final hearing.

e. Briefs. Unless otherwise ordered by the court or as required for motions for summary judgment [NM LBR 7056-1], briefs or supporting points with citations or authorities need not be submitted with a motion.

RULE 9015-1 JURY TRIAL

a. Applicability of Certain Federal Rules of Civil Procedure. Rules of Civil Procedure 38, 39, 47-51, and 81(c) insofar as it applies to jury trials, apply in cases and proceedings, except that a demand made under Rule of Civil Procedure 38(b) shall be filed in accordance with Bankruptcy Rule 5005.

b. Consent to Have Trial Conducted by Bankruptcy Judge. If the

right to a jury trial applies, a timely demand has been filed under Rule of Civil Procedure 38(b), and the bankruptcy judge has been specially designated to conduct the jury trial, the parties may consent to have a jury trial conducted by a bankruptcy judge under 28 U.S.C. § 157(e) by jointly or separately filing a statement of consent no later than the time fixed by the court.

RULE 9019-1 SETTLEMENTS AND AGREED ORDERS

Hearings will not be vacated due to resolution unless a written order is submitted prior to the scheduled hearing and the judge's office is notified by telephone of the submission of such an order. Otherwise, counsel shall appear at the scheduled hearing to apprise the court of their resolution of the matter.

RULE 9021-1 JUDGMENTS AND ORDERS - ENTRY OF

a. Form of Judgments and Orders. The title of a judgment or order shall identify the motion or application upon which it is based by title and party filing and shall set out the relief granted specifically, not simply by reference to the motion. A judgment or order shall be signed by the movant or attorney submitting same. Such signature shall constitute a certification of the facts recited therein. A judgment or order shall also contain the signature or other form of consent of all parties consenting thereto, and shall list the names, addresses, and telephone numbers of all attorneys and others entitled to notice of entry of the judgment or order. The listing of attorneys shall include an indication of the party represented. Upon the conclusion of a hearing, a party as directed by the court shall promptly submit a proposed form of judgment or order. The judgment and order shall be approved for form by all parties affected thereby unless for good cause shown the court directs that such approval is not necessary.

Reference: Fed R. Bankr. P. 9022(a).

b. Consent Orders. A consent order need not be accompanied by a motion.

c. Final Judgment Based Upon a Negotiable Instrument. A negotiable instrument that is the basis of a final judgment must accompany the judgment. The instrument must be:

- filed as an exhibit upon entry of judgment;
- merged into the judgment and marked as merged; and
- marked with the docket number of the action.

The instrument may be delivered to a party only by court order.

RULE 9028-1 DISABILITY OR MISCONDUCT OF A JUDGE

A person may lodge a complaint against a judge in accordance with 28 U.S.C. § 372(c) by obtaining a complaint form from the clerk of the bankruptcy court and filing with:

Circuit Executive
United States Court of Appeals for the Tenth Circuit
Byron White U.S. Courthouse
1823 Stout Street
Denver, CO 80257

Such proceedings are governed by the Rules of the Judicial Council of the Tenth Circuit Governing Complaints of Judicial Misconduct or Disability, which are available from the clerk.

RULE 9070-1 EXHIBITS

Unless the court orders otherwise, exhibits of such size as to be unsuited for filing in the case file proper shall be retained following hearing or trial by the party introducing the same in evidence. Such party shall be responsible for producing exhibits if required for an appeal record.

ADDENDUM A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF
REFERENCE TO BANKRUPTCY JUDGES
AND LOCAL BANKRUPTCY RULES Misc. No. 84-0324

ADMINISTRATIVE ORDER

Pursuant to the authority of Section 157, Title 28, United States Code, and Rule 9029 of the Federal Rules of Bankruptcy Procedure,

IT IS ORDERED that all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the bankruptcy judges for the district to the extent permitted by law.

IT IS FURTHER ORDERED that the bankruptcy judges of the district are authorized to make rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction, whether heard by a district judge or bankruptcy judge.

IT IS FURTHER ORDERED that the rules so adopted by the bankruptcy judges shall be subject to review as may be appropriate, and upon approval, shall supersede the Bankruptcy Section of the local rules of this court.

s/

JUAN G. BURCIAGA
Chief Judge

(Filed in the U. S. District Court, NM, on March 19, 1992)

ADDENDUM B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

In re:

IN THE MATTER OF THE AUTHORITY
OF THE BANKRUPTCY JUDGES TO
CONDUCT JURY TRIALS IN CIVIL
PROCEEDINGS,

Misc. No. 94-323

ADMINISTRATIVE ORDER

The United States District Court for the District of New Mexico, pursuant to 28 U.S.C. Section 157(e) hereby specially designates the Bankruptcy Judges of this District to conduct jury trials in those proceedings that may be heard by a Bankruptcy Judge.

s/ _____
John E. Conway
Chief United States District Judge

s/ _____
James A. Parker
United States District Judge

s/ _____
C. LeRoy Hansen
United States District Judge

s/ _____
Martha Vazquez
United States District Judge

(Filed in the U. S. District Court, NM, on December 1, 1994)

F:\rules\local10.96

FILED
United States Bankruptcy Court
Albuquerque, New Mexico
August 18, 1999 16:22

Michael M. Stapp
CLERK

U.S. Bankruptcy Court
District of New Mexico
Digital File Stamp

Case:	55-99359
Title:	Electronic Filing
Document Type:	Order
Document Number:	1
Description:	Order Adopting Guidelines for Attorney Filing by Electronic Transmission Pursuant to New Mexico Local Bankruptcy Rule 5005-4(b), Electronic Filing, and Notice Regarding Implementation of New Mexico Local Bankruptcy Rule 7005-1, Service and Notice by Electronic Transmission.
Court Signature:	5b cc 9d d8 5c c9 53 a1 94 59 c8 68 eb 01 76 ff 8c 2c 03 6a 63 b4 9b b7 6e d7 d4 65 b7 8d 87 bf 31 3f 65 c7 c8 a6 73 e2 39 d9 cd c4 e1 27 2f 7f 95 34 db 42 e9 38 2a f6 98 b5 66 be cc 3b 84 ae

This document constitutes an official file stamp of the Court and, if attached to the document identified above, serves as an endorsed copy of the pleading. It may be used in lieu of the Court's mechanical file stamp for the named document only, and misuse will be treated the same as misuse of the Court's official mechanical file stamp. The Court's digital signature is a verifiable mathematical computation unique to the filed document and the Court's private encryption key. This signature assures that any change can be detected.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re

ELECTRONIC FILING.

Miscellaneous No. 99-359

**ORDER ADOPTING GUIDELINES FOR ATTORNEY
FILING BY ELECTRONIC TRANSMISSION PURSUANT TO NEW
MEXICO LOCAL BANKRUPTCY RULE 5005-4(b), ELECTRONIC FILING,
and
NOTICE REGARDING IMPLEMENTATION OF
NEW MEXICO LOCAL BANKRUPTCY RULE 7005-1,
SERVICE AND NOTICE BY ELECTRONIC TRANSMISSION**

Pursuant to NM LBR 5005-4(b), the Court adopts the following guidelines for electronic filing:

1. Use of the log-in name and password required to submit documents electronically constitutes an attorney's signature for purposes of Fed. R. Bankr. P. 9011.

2. Any log-in name and password required for electronic filing shall be used only by the attorney to whom the log-in name and password are assigned and by such agents, members and employees of that attorney's firm as that attorney shall authorize. The attorney must immediately notify the court upon learning that the security of the log-in has been compromised.

3. When a document is filed electronically, the official document of record is the electronic document stored in the court's database. A printed copy of the court's digital file stamp is the equivalent of the court's mechanical file stamp.

4. Upon the electronic filing of a document, a notice of the filing is placed in the ACE electronic mailbox of all attorney

participants in the case who have been assigned an ACE log-in name and password. Arrival in the attorney's ACE electronic mailbox shall constitute service of the document on that attorney if that attorney has agreed to accept service via the ACE electronic mailbox.¹ Service via ACE electronic mailbox or by facsimile transmission shall be considered the equivalent of posting such document in the United States Mail for purposes of applying the three-day mailing rule of Fed. R. Bankr. P. 9006(f). There is no requirement to transmit a paper copy to an attorney who has agreed to accept service via ACE electronic mailbox or by facsimile transmission.

5. Names of attorneys who have agreed to receive service and notice from other attorneys via ACE electronic mailbox or by facsimile transmission shall be listed on the Court's website, at www.nmcourt.fed.us. Service upon and notice to attorneys whose names do not appear on the Court's website listing is to be accomplished by other means.

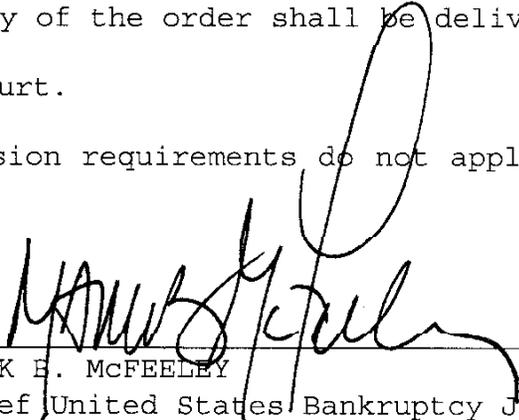
6. Documents which require the verified signature of a person other than the electronically filing attorney may be electronically filed, utilizing scanning technology.

¹See NM LBR 7005-1; the agreement form is available from the Courts' website, <http://www.nmcourt.fed.us> (select the U.S. Bankruptcy Court button).

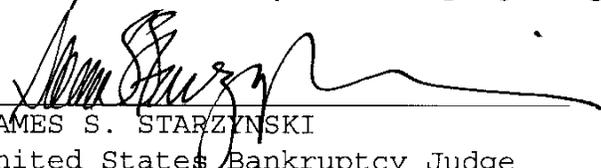
7. Any document filed electronically will be electronically file stamped with the actual time and date of filing. However, the "drop box rule" for the filing of pleadings and other documents, as set out in section 2.2 of the Clerk's Practice and Procedure Guide (2nd Ed.: October 1, 1996) is applicable; that is, any pleadings or other documents filed by a party after the close of business, but before 8:00 am the following business day will be deemed filed at midnight the previous business day. As also set out in that section, the "drop box rule" does not apply when an order or notice specifies a time and date by which to file a document.

8. A motion to file a document under seal shall be filed electronically. The order of the Court authorizing the filing of such document under seal shall be filed electronically by the Court. A paper copy of the order shall be attached to the document under seal and the document and the copy of the order shall be delivered to the clerk of the Bankruptcy Court.

9. The clerk's copy submission requirements do not apply to electronically filed documents.



MARK E. MCFEELEY
Chief United States Bankruptcy Judge



JAMES S. STARZYNSKI
United States Bankruptcy Judge