



**United States Bankruptcy Court
District of New Mexico
Office of the Clerk
Norman H. Meyer, Jr., Clerk of Court**

December 19, 2003

Notice to Practitioners No. 2003-14

Topics:

- (1) **CHANGE TO Clerk's Office Holiday Schedule**
- (2) Paperless Phase 2 as of January 1, 2004 - Clerk's Office to Rely on Electronic Docket - Changes to Procedures - Order Amending Local Rules
- (3) Issuance of Orders to Show Cause
- (4) No More Copy Center as of December 31, 2003
- (5) Delay in Revision of Clerk's Practice and Procedure Guide
- (6) Amendment to Local Rules Regarding Use of Cameras and Cell Phones in the Courthouse
- (7) Changes to Court's Website

(1) CHANGE TO Clerk's Office Holiday Schedule

The Court will be closed on Friday, December 26, 2003.

(2) Paperless Phase 2 - Clerk's Office to Rely on Electronic Docket Beginning January 1, 2004

In 1994, the Court published its vision of using state-of-the-art automation to function virtually without paper. This automation initiative was based on our desires to reduce costs for the court and its customers, to improve access to court records, and to improve customer service. The first step to be implemented was creation of our web-based electronic records and electronic filing program called Advanced Court Engineering (ACE).

In September 1999, the Court implemented electronic filing of bankruptcy cases, adversary proceedings, and case documents, with the exception of proofs of claim. In June 2000, we began scanning all paper documents¹ for viewing on the electronic docket. In March 2001, we began to maintain notices mailed from the Bankruptcy Noticing Center solely in the electronic case file.

On January 1, 2004, the Court will take another huge step toward realizing the vision: the Clerk's Office will discontinue use of paper file folders² for new bankruptcy cases and adversary proceedings. Paper (i.e., manually filed) documents will be scanned in for viewing via ACE, and then disposed of 60 days after entry on the docket. The official document of record will be the electronic image of the scanned paper document.

¹Proofs of claim and non-scannable documents are the exception at this time. Implementing scanning and e-filing of proofs of claim is one of our goals for the 2004-2005 budget year, and constitutes Phase 3 of the Paperless Project.

²The Clerk's Office will maintain paper proofs of claim or non-scannable documents in file folders.

All³ papers filed on or after January 1, 2004, will ONLY be available electronically via ACE. No paper copy or file folder will be maintained. Cases and proceedings filed in 2004 and later will have no file folder. Pre-2004 cases will have file folders, but documents filed in 2004 and later will not be available in the folders. Consequently, pre-2004 pending cases may have a combination of paper and electronic documents.

(a) PAPER “Flag” on 2004 and Later Dockets

For cases filed in 2004 and thereafter, the Clerk’s Office will alert customers to the fact that a case or proceeding has a paper component by flagging the docket with the word “PAPER” and docketing the entry of the flag. The docket entry will say “Documents filed as of Jan 1, 2004, are only available for viewing electronically. A paper case file which contains either claims or non-scannable documents has been created and is available for viewing in the Clerk’s Office.”

(b) Copy Requirements FOR PETITIONS Eliminated as of January 1, 2004

In addition to having all documents (with the exception of proofs of claim and non-scannable documents) available on-line via ACE, filers will benefit from the elimination of the court’s copy requirements **for petitions**. Effective January 1, 2004, paper copies **of petitions** previously required by the court are no longer required. We will gradually phase out virtually all other copy requirements and will keep you posted.

(c) Paper Copies of Claims Retained

As noted above, the Clerk’s Office will maintain paper copies of proofs of claim in file folders available for viewing in the Clerk’s Office. If you are viewing a case in ACE and the claims register shows that proofs of claim have been filed, you may come to the Clerk’s Office to examine them.

(d) DO NOT FILE Proofs of Claim in No Asset Chapter 7 Cases

The filing of proofs of claim in no asset chapter 7 cases imposes an unnecessary record-keeping burden on the Clerk’s Office. Please heed the instructions on the notice of bankruptcy case, meeting of creditors and deadlines (the § 341 notice) and DO NOT FILE PROOFS OF CLAIM IN NO ASSET CHAPTER 7 CASES.

(e) Paper Copies of Non-Scannable Documents Retained

The Clerk’s Office will maintain paper copies of non-scannable documents in file folders available for viewing in the Clerk’s Office. Please help us to reduce the number of non-scannable documents by remembering the judges’ urging that practitioners not include exhibits to documents unless otherwise directed.

³Except proofs of claim and non-scannable documents.

- (f) Order Entered December 18, 2003, Amending Local Rules 5003-1 and 5005-1 Entered to Effect "Paperless" State; Official Record and Filer's Duty to Review Scanned Image

Local Rule 5003-1, Clerk - General/Authority, has been amended to define the official document of record as the electronic document stored in the court's database. The significance of this amendment is to include scanned document images as well as electronically filed document images in the definition of official document of record.

Local Rule 5005-1, Filing Papers - Requirements, has been amended to require the filer to review the accuracy of the scanned image of a paper document within 60 days of the date of filing of the document. The practice in the Clerk's Office will be to retain paper documents for 60 days after the date of filing. If during the 60 day period, the filer reports to the Clerk's Office that the image is defective (e.g., a page is missing or the image is not readable), the Clerk's Office will re-scan the document, noting on the docket that the original document was re-scanned. An error discovered after 60 days will stand; the filer may amend the document to correct the error.

The order is on the Court's website at <http://www.nmcourt.fed.us/web/BCDOCS/Files/locrules.htm>.

- (g) Former "Left-hand Side" of File Documents Reduced; Remaining Ones Will Be Docketed, Possibly Scanned, and Become Part of Electronic File

Effective January 1, 2004, items which had been maintained on the left-hand side of case files will be handled differently. A number of those items will now be docketed and scanned, such as requests for placement on mailing list, substantive correspondence, letter briefs, certain undeliverable court orders, etc. Thus, these documents will appear as a public record on the Internet. Other items will be docketed and, until we have this capability, not scanned. This includes proofs of claim in no asset cases and transfers of claims.

(3) Issuance of Orders to Show Cause

On December 1, 2003, the Clerk's Office began issuing orders to show cause for the following defects:

1. Failure to submit a mailing list with the petition
2. Failure to submit a properly-formatted mailing list with the petition
3. Failure to file a disclosure of non-filing spouse or statement of no spouse with the petition
4. Failure to submit statement of social security number with a paper petition⁴, a problem which occurs with the following variations:
 - A. Official forms submitted with no statement of social security number
 - B. (Starting January 1, 2004) Old forms submitted with 9-digit social security number and

⁴Electronically filed petitions contain the statement of social security number as a part of the data entry process. Be sure, however, to use the "effective 12/03" version of Form 100, Declarations by Debtor(s) for Electronic Filing of Petition.

no statement of social security number

C. Old forms submitted with redacted social security number and no statement of social security number

5. Failure to file a certificate of service verifying that the attorney for the debtor or the self-represented debtor provided a copy of the § 341 notice to the non-filing spouse. This situation arises after failure to timely file disclosure of non-filing spouse or statement of no spouse (see the provisions of NM LBR 1002-1; see also Notice to Practitioners No. 2003-13).
6. Failure to file a certificate of compliance verifying that the attorney for debtor or the self-represented debtor provided a copy to all creditors of the verified statement of social security number. This situation arises after failure to timely submit statement of social security number (see the provisions of NM LBR 1007-5(a); see also Notice to Practitioners No. 2003-13).
7. Failure to timely file a certificate of compliance verifying that the individual debtor provided non-filing spouse information to all creditors. (See the provisions of NM LBR 1007-5(b); see also Notice to Practitioners No. 2003-13).

SPECIAL NOTE: Practitioners and pro se parties will be required to appear before the Court in addition to submitting the required forms.

(4) No More Copy Center after December 31

Albuquerque Legal, the court's contract copy center vendor, has notified the court that it will no longer provide services under this contract, effective Wednesday, December 31, 2003. The court has decided not to solicit bids for a replacement contract copy center. This decision is based on two facts: (1) reduced requests for paper copies make it difficult to attract a copy center vendor, and (2) the Court's next step in its initiative to go paperless will make a copy center unnecessary. After January 1, 2004, the cost per copy and the procedure for obtaining paper copies of court documents are as follows:

Cost: \$0.50 per page; prepayment is required
Turnaround time: Up to two business days from the date of the request
Phone: 505-348-2500 or toll free 866-291-6805
Fax: 505-348-2473
E-mail: copy@nmcourt.fed.us (DO NOT E-MAIL CREDIT CARD INFORMATION)
In person: At the Customer Service Counter, Clerk's Office, 500 Gold Avenue SW, 10th Floor
Provide: Case name (and number, if known) and document name (and document number, if known)

If you have a credit card blanket authorization on file with the Clerk's Office, the Clerk's Office will confirm the total cost, charge your credit card, and make copies. Copies can be e-mailed, faxed, mailed to you, or made available for you to pick up in the Clerk's Office.

If you do NOT have a credit card blanket authorization form on file with the Clerk's Office, you will need to contact the Clerk's Office and submit your request. The Clerk's Office will call you back to inform you of the cost. When we receive the amount due (you may authorize use of your credit card via telephone), we will fulfill the copy request.

(5) Delay in Revision to Clerk's Practice and Procedure Guide

Due to several other projects coming to completion or being initiated this past fall, revision of the Clerk's Practice and Procedure Guide has been delayed. Significant progress has been made in the areas of identifying updates and additions and in performing Clerk's Office internal review of the existing Guide. We are now aiming for a publication date of late Spring 2004.

(6) Amendment to Local Rules Regarding Use of Cameras and Cell Phones in the Courthouse

On December 15, 2003, the Court entered an order amending Local Bankruptcy Rule 5073-1: Photography, Recording Devices and Broadcasting, to include reference in section (c) to telephones, pagers, personal digital assistants or other devices which may contain camera components. The general prohibition against cameras does not apply to such devices as long as the device is turned off while court is in session; the camera component of such devices may only be activated while in the courthouse in connection with an investitive, ceremonial or naturalization proceeding. The amendment is effective January 1, 2004. This order is posted on the Court's website at <http://www.nmcourt.fed.us/web/BCDOCS/Files/locrules.htm>.

(7) Changes to Court's Website

We have added two new menu items - Court Forms and Opinions - to the main menu at www.nmcourt.fed.us/web/BCDOCS/bcindex.html. All forms are up-to-date and now easily accessible from the homepage menu. Court opinions are now accessible from the main menu; an ACE account is not required to access court opinions.

HAPPY HOLIDAYS TO YOU AND YOURS

NORMAN H. MEYER, JR.
Clerk of Court