

Bankruptcy Court Rules and Procedures Regarding Electronic Signatures of Persons Other than Filing Attorneys

*Report to the Subcommittee on Technology and Cross Border Insolvency of the
Advisory Committee on Rules of Bankruptcy Procedure*

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February 22, 2013

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Executive Summary

At the request of the Advisory Committee on Rules of Bankruptcy Procedure, we collected and reviewed local bankruptcy rules regarding signatures of non-registrants of CM/ECF (e.g., debtors) and requirements for retention of documents bearing original handwritten (“wet”) signatures of non-registrants. We also reviewed district court rules regarding signatures and retention, reviewed an OMB document on the use of electronic signatures in federal transactions, and solicited the views of interested parties regarding potential rules changes in these areas.

Findings include:

- The vast majority of bankruptcy courts (85/93, or over 91%) require the filing attorney to retain hard copy documents bearing non-registrants’ signatures, although retention periods and the times from which they begin running vary widely.
- Of courts that do not require retention of hard copy documents, most require a declaration to be filed that is signed under penalty of perjury by the person whose signature is required on the documents, attesting to the truth and accuracy of information contained in those documents. Depending on the court, the declaration form is retained either by the filing attorney or the clerk of court. Other variations include whether the attorney must also sign the declaration; when the declaration is signed relative to the filing of the documents to which it refers; whether the declaration is retained in hard copy form or as a scanned image; and the exact attestations the signer makes in signing the declaration.
- Four courts do not require retention of hard copy documents (at least under some circumstances) and also do not have a declaration procedure.
- District courts generally have retention requirements in both civil and criminal cases. Our research did not reveal any district courts that allow a declaration to be filed without requiring retention of hard copies of signature-bearing documents.
- United States Trustees and Chapter 7 case trustees responding to our inquiry expressed concern about doing away with hard copy retention requirements because of the difficulty that could cause with subsequent prosecutions. Some suggested, however, that requiring a scanned image of the relevant signature(s), as opposed to a purely electronic (“/s/Name”) signature would address that problem.
- Informal feedback from the Executive Office of U.S. Attorneys indicated that hard copy signatures are thought to serve an important evidentiary function, particularly in jury trials, in prosecutions for fraud or related crimes. Although hard copy signatures are preferable, a scanned image of a signature might be “workable.” Those responding expressed some concern about a declaration option, noting that having a signature on a declaration in lieu of the filed documents could leave ambiguity as to whether the signer saw all of the relevant documents or knew which ones were covered by the declaration.
- A number of federal agencies are also grappling with the issue of electronic signatures. In a report issued on January 25, 2013 (earlier versions of which were available in 2012), at the request of the Office of Management and Budget (OMB), the General Services Administration (GSA) and Federal Chief Information Officers (CIO) Council enumerated the following requirements for legally binding electronic signatures in federal organization transactions: “1. A person (i.e., the signer) must use an acceptable electronic **form of signature**; 2. the electronic form of signature must be executed or adopted by a person

with the **intent to sign** the electronic record; 3. the electronic form of **signature must be attached to or associated with the electronic record** being signed; 4. there must be a means to **identify and authenticate** a particular person as **the signer**; and 5. there must be a means to preserve the **integrity of the signed record**” (emphases in original).

I. Introduction and Background

At the fall 2011 meeting of the Advisory Committee on Rules of Bankruptcy Procedure, the Subcommittee on Forms suggested that the Advisory Committee develop national rules regarding documents containing signatures of persons other than registered CM/ECF users (“non-registrants”). Specifically, such rules could govern the circumstances under which bankruptcy courts can accept documents electronically signed by non-registrants, and requirements for attorneys to retain documents containing the original (“wet”) signatures that correspond to the electronically filed documents. The model rules addressing these issues leave much to the discretion of individual courts, and practices vary widely.¹ After discussion, the Advisory Committee chair referred the issue to the Subcommittee on Technology and Cross-Border Insolvency (“Technology Subcommittee”) to consider potential rules changes relating to these issues.

There are important considerations both in support of and against requiring original handwritten signatures of non-registrants and requiring the attorneys to retain the hard copy documents with original signatures. The existence of a hard copy document bearing the original signature of a person attesting to the truth of information within the document has been seen as necessary to pursuing later criminal prosecutions based on fraud or other bankruptcy-related crimes. It also has been used as the basis for determining pivotal bankruptcy-related issues (e.g., challenges to a debtor’s ability to receive a discharge under 11 U.S.C. § 727(a)(4)(A) may be met with the claim that the debtor never signed the document providing the basis for the challenge, or did not sign the version of the document that was filed). On the other hand, this practice has raised concerns about attorneys being required to retain and produce documents that could ultimately incriminate their clients, and has also been seen as burdensome for attorneys in terms of storage capacity. The new forms produced by the Bankruptcy Forms Modernization Project will generally be longer when printed than the prior forms, increasing the potential storage burden on attorneys and law firms if retention of hard copies is required.

At the spring 2012 Advisory Committee meeting, the Technology Subcommittee recommended that a national rule be developed, and presented two options for consideration. One option would require that an electronically filed document signed by someone other than the filer be accompanied by a separate declaration, bearing an original signature, in which the signer attests to the truth and validity of the information provided in the electronically filed document. The court would retain the declaration in electronic form, and the filing attorney would not be required to retain the hard copy documents with original signatures. This procedure is similar to one currently in use in the U.S. Bankruptcy Court for the Northern District of Illinois.

The second option would amend the rules to provide that any petition or other document electronically filed and verified, signed, or subscribed in a manner that is consistent with technical standards that the Judicial Conference of the United States establishes must be treated for all purposes (including penalties for perjury) in the same manner as though signed or subscribed.

Rather than engaging in a discussion of the merits of these two options, at the spring 2012 meeting the Advisory Committee, at the recommendation of the Technology Subcommittee, suggested that the Advisory Committee chair consult with the chair of the Standing Committee to

1. For a discussion of the model rule provisions, see Memorandum from Elizabeth Gibson, Reporter, to the Subcommittee on Technology and Cross Border Insolvency re: Electronic Signatures of Persons Other than Filing Attorneys (July 31, 2012).

determine if other rules advisory committees should be involved in the consideration of these issues. After being consulted, the Standing Committee chair indicated that the Advisory Committee should proceed on its own at this point in determining whether to develop national bankruptcy rules on signatures and retention requirements. Thus, the matter was referred back to the Technology Subcommittee for consideration of specific potential national rules on this topic.

After discussion, the Technology Subcommittee determined that for several reasons the first option mentioned above—i.e., the “declaration” option—would likely be preferable to the second option. Before making a final recommendation, however, the Subcommittee asked the Federal Judicial Center to (1) gather information about procedures currently in place in the bankruptcy courts to deal with signature and retention issues, (2) obtain input from prosecutors and other interested parties about their experiences with different local procedures on these issues and about their views on potential rules changes, and (3) determine how district courts handle signature and retention issues.

The Advisory Committee learned after its fall 2012 meeting that the Judicial Conference Committee on Court Administration and Case Management (CACM) had also expressed preferences about national rules relating to signatures of non-registrants. In an August 20, 2012, letter to then-Standing Committee Chair Judge Mark Kravitz, Judge Julie Robinson, chair of CACM, set forth recommendations from CACM regarding national rules on this issue. The committee’s preferred approach would be to implement a national rule specifying that an electronic signature in the CM/ECF system is *prima facie* evidence of a valid signature. The second approach would require courts, rather than attorneys, to retain hard copies of documents bearing “wet” signatures of non-registrants. The third, and least-favored, approach mentioned by Judge Robinson was to establish national rules regarding retention periods for hard-copy documents, rather than leaving this to each court’s local rules.

The questions addressed in this report include:

1. How does each bankruptcy court currently handle electronic filing of documents bearing signatures of non-registrants?
2. For courts that require retention of documents bearing original signatures of non-registrants, who retains the documents, and for how long are they required to be retained?
3. How many courts require separate declarations to be signed and filed that attest to the truth of information in electronically filed documents? How is the declaration procedure implemented in different courts?
4. How do district courts currently handle the issue of signatures of non-registrants?
5. What are the views of prosecutors, U.S. trustees, and case trustees regarding potential rule changes concerning signatures of non-registrants and retention requirements?

An earlier version of this report was discussed by the Technology Subcommittee in a conference call on December 28, 2012. During that call, members of the subcommittee discussed various options for handling electronic signatures in bankruptcy cases, noting the need to balance the burden of requiring retention of hard copies against the loss of evidentiary power in subsequent prosecutions if the hard copies are not retained. At the conclusion of the call, members of the subcommittee tentatively endorsed the idea of requiring pages bearing the non-registered user’s signature to be scanned, and having those scanned images filed along with the (electronic) documents to which they relate.

At the January 3, 2013, meeting of the Judicial Conference Standing Committee on Rules of Practice and Procedure, Judge Wedoff, chair of the Advisory Committee on Bankruptcy Rules, summarized the information reviewed by the Technology Subcommittee and the direction favored by the subcommittee at this point. The Standing Committee did not provide any specific direction or feedback.

II. Local Bankruptcy Court Rules on Signatures and Retention

To determine how each bankruptcy court addresses signatures of non-registrants and retention requirements, we searched court websites to find the local rules or procedures that address these issues. When the relevant procedures could not be found on the website, or where provisions were unclear, we contacted the clerk of court's office for information. The table in Appendix A (p. 15) summarizes the provisions in each court.²

According to our website search, more than one-third of the bankruptcy courts (38) have provisions on these issues both in a local bankruptcy rule (normally either L.B.R. 5005 or 9011) and in an administrative procedures document, general order, or another non-rules mechanism. The rest of the courts that address these issues use only a local rule (26 courts) or only one of the non-rules-based approaches (29 courts). About one-quarter of the courts had local forms to implement some of the procedures, particularly those requiring a signed and filed declaration in which the non-registrant attests to the truth and validity of electronically filed documents (see discussion below).

A. Retention requirements for original signatures

Almost all bankruptcy courts (85) require the filing attorney to retain documents with original signatures of non-registrants for a specified period of time. In 57 courts, the retention period runs from the time the case is closed; in eight courts it runs from the time the appeals period ends;³ and in nine courts the period runs from the later of case closing or the appeals period. Three courts run the retention period from the time of filing, and three do not specify when the retention period begins. The five remaining courts that have a retention period use a combination of time periods, such as five years from filing or the completion of appeals, whichever is later (Nevada). The bankruptcy courts that do not specify any retention period are the Middle District of Pennsylvania; the Middle District of Tennessee; the Northern District of Illinois; the District of Minnesota; the District of Alaska; the District of New Hampshire; the District of New Mexico; and the Western District of Wisconsin.⁴

2. All bankruptcy courts had their local rules on the court's website. It is possible some courts had administrative procedures or other non-rules documents that were not on the website, but we were able to find provisions covering electronic signatures of non-registrants and retention issues for each court, either on the website or through communication with the clerk of court's office.

3. Most courts that specify the appeals period in their retention requirements refer to the expiration of the maximum allowable time for appeals.

4. Although the Western District of Wisconsin does not specify a retention requirement or time period, the administrative procedures for the court indicate that, upon request, original signed documents must be provided, and that "for evidentiary purposes the parties are encouraged to retain the original documents in their records."

The most frequent retention period (used in 29 courts), irrespective of the triggering event, is five years, corresponding to the statute of limitations for bankruptcy fraud. The next-most-frequent retention periods are two years (16 courts), one year (11 courts), and three years (10 courts). The range of retention periods is from zero years (e.g., retention only required until the case is closed) to seven years.

In courts with retention requirements, generally the filing attorney must retain hard copies of the signature-bearing documents; however, a few courts with retention requirements do not require the retention to be of hard copy documents. For example, in the Eastern District of Wisconsin, as an alternative to retaining a hard copy of a signed document, the filer may have the original document scanned, digitized, and stored electronically if a Verification of Signature and Designation of Electronic Counterpart as Original form is signed and filed.⁵ In Hawaii, Local Bankruptcy Rule 5005(4)(f) provides that in lieu of an originally signed document, an electronic case files (ECF) user “may produce the document’s scanned image with the digital file’s ‘date modified’ information attached.” Both the Eastern District of Washington and the Eastern District of Virginia allow the filer to retain either a hard copy of the signed document or a copy made “in the ordinary course of business.”⁶

In a small number of courts, the retention requirement applies only in certain circumstances. For example, in the Eastern District of California, retention is required only if the filed document contains an “/s/Name” signature form or a software-generated signature rather than a scanned original signature.⁷

All courts that require signed documents to be retained put the burden of retention on the filing attorney. Where a court allows a declaration to be retained in lieu of retention of the signed original documents, sometimes the filing attorney retains the declaration form, and sometimes the clerk’s office retains it (see discussion of declaration procedures below).

B. Declaration procedures

As mentioned in the introduction to this report, the Technology Subcommittee expressed an initial preference for developing a national rule that would allow bankruptcy courts to accept a signed declaration attesting to the truth of the information in documents filed and signed by the debtor or other non-registrant. The committee, however, requested more information about declaration procedures currently in existence.

Our review of local bankruptcy rules indicates that 32 bankruptcy courts require a declaration to be signed by the debtor under penalty of perjury, attesting to the truth of information contained in documents filed at the beginning of a bankruptcy case. Twenty-five of these courts have the attorney file a signed declaration *in addition to* requiring retention of hard copy documents; the remaining seven courts accept the signed declaration without requiring the attorney to retain the original signed documents. Provisions about declarations, and the declaration forms themselves, vary along the following dimensions:

- whether they are signed only by the debtor (non-registrant) or also by the filing attorney
- what the debtor (and attorney, if applicable) is attesting to

5. L.R. 5005.1(b) (Bankr. E.D. Wisc.).

6. L.B.R. 5005-3(f)(2)(B) (Bankr. E.D. Wash.); CM/ECF Policy 7(A) (Bankr. E.D. Va.).

7. L.B.R. 9004-1 (Bankr. E.D. Cal.).

- when the declaration must be signed relative to the filing of the related documents
- the form in which the declaration is transmitted to the court (e.g., scanned image versus hard copy)
- the documents to which the declaration form relates (e.g., many courts have separate declaration forms for the petition and accompanying schedules and statements versus documents filed later in the case)

1. Declaration filed in addition to retention of hard copy documents

Of the courts that require a signed declaration to be filed in addition to requiring attorneys to retain hard copies of the documents bearing original signatures of non-registrants, some require the declaration to be filed in hard copy format (e.g., all of the Texas bankruptcy districts; Arizona; - Western District of Michigan; Virgin Islands), while others allow the declaration to be filed as an imaged document (e.g., Massachusetts; Western District of Louisiana). Some of the districts provide that the clerk of court's office will retain the filed declaration (e.g., the Texas bankruptcy districts; Northern District of Illinois; Middle District of Louisiana), while others require the filing attorney to retain the original declaration form in addition to the originals of other filed documents (e.g., Massachusetts; Nevada). For more information on each court's procedures, see Appendix A.

Our research indicated that at least two bankruptcy courts, Colorado and Vermont, previously required a declaration form to be filed in addition to having attorneys retain the documents, but have changed their procedures to no longer require the declaration form to be filed. Bradford Bolton, clerk of the U.S. Bankruptcy Court for the District of Colorado, explained the court's decision to do away with the declaration requirement as follows:

We found that it was a lot of extra effort for minimal benefit to accept and scan the original paper Form 21 Declaration when counsel was already required to retain the forms with wet signatures in their offices for two years. Mr. Greg Garvin, Assistant U.S. Trustee for Colorado, advised that after doing some discovery with likely ignorers of the rules, his office concluded that there were very few occasions (one or two) where counsel could not locate the debtor's original signature. As a result of Mr. Garvin's inquiries, attorneys began paying more attention to the rule and he was not concerned that there was not a duplicate signature in the court records.

We believe that it would be a burdensome, duplicative and unproductive step backwards to require filing or submission of the Form 21 Declarations with the Court. In addition, the judges concluded that it would demonstrate a fundamental distrust of attorneys following the rules of document retention. Going forward, the reduction of future appropriations forces the court to continue to find ways of eliminating work with questionable necessity or benefit in promoting effective case administration and dispute resolution. Eliminating filing and storage of the Form 21 Declaration was one of many changes we initiated, and continue to initiate, in an effort to work smarter and save our resources for more critical priorities.⁸

8. Personal communication via email from Bradford Bolton to Molly Johnson, December 10, 2012.

Thomas Hart, clerk of the U.S. Bankruptcy Court for the District of Vermont, provided this explanation for the court’s decision to drop the declaration requirement:

We initially enacted the rule requiring Declarations regarding Electronic Filings (DREFs) primarily to create a record that would help with fraud prosecutions and we did not anticipate imposing this requirement would be a significant burden on the bar. At the time of the recent rule revision, we verified that neither the US Trustee nor the US Attorney had actually used the DREFs in any fraud prosecutions, and also determined that it was a significant burden to debtors’ attorneys to obtain and file the DREFs. So, on balance the court decided there was not a compelling reason to continue to impose this burden on the debtors’ bar, that the DREFs were not accomplishing the intended goal, and there are sufficient other safeguards in place to limit, detect and prosecute any fraud arising from electronic filings.⁹

Conversely, the U.S. Bankruptcy Court for the Eastern District of Louisiana does not have a declaration requirement under its current local rules, but proposed Local Rule 1008 requires the filing of a declaration form, which would be maintained by the clerk of court’s office in hard copy form.¹⁰

2. Declaration filed with no requirement for attorney to retain signed hard copy documents

Because so few bankruptcy courts have no retention requirement in conjunction with their declaration provision, and because this procedure is specifically of interest to the Subcommittee, we will describe here each district’s provisions. The full provisions for these courts and any related forms can be found in Appendix B (p. 37).

District of Alaska. For all petitions, lists, schedules, and statements requiring the signature of the debtor(s) that are filed electronically, Local Bankruptcy Rule 5005-4(c)(2) requires that the filing attorney prepare and file a Declaration Re: Electronic Filing, bearing the original signature(s) of the debtor(s) and debtors’ attorney(s). The declaration must be signed before the petition is filed, and filed conventionally with the court within 14 days of the electronic filing of the petition. The declaration is signed under penalty of perjury, and in it the debtor declares that the information given to the attorney is true and correct and that the debtor consents to the attorney sending the documents to the bankruptcy court electronically.

District of Minnesota. Pursuant to Local Bankruptcy Rule 9011(4)(d), when an original signature of a debtor, joint debtor, or authorized individual is required on a document, filing users can either submit the electronic document with a scanned image of the signature page signed by the debtor(s) or with a scanned image of the ERS Signature Declaration form. The Signature Declaration is signed under penalty of perjury and declares that the person signing the declaration has provided true and correct information to the attorney; that the information provided in the “Debtor Information Pages” submitted when the case is commenced electronically is true and correct; that if no Social Security number is provided, it is because the debtor doesn’t have one;

9. Personal communication via email from Thomas Hart to Molly Johnson, December 18, 2012.

10. Proposed new Local Rule 1008-1 (U.S. Bankruptcy Court for the Eastern District of Louisiana); personal communication via email from Brian Richoux, clerk of the U.S. Bankruptcy Court for the Eastern District of Louisiana, December 10, 2012. [The proposed rule has since been adopted.]

and that the debtor consents to the attorney electronically filing the documents together with a scanned image of the Signature Declaration.

District of New Hampshire. According to Administrative Order 5005-4(d)(3), when a document is electronically filed that contains an original signature under oath, other than that of the filing user, a paper copy of the court's Declaration of Electronic Filing form must be submitted to the court within seven days. The declaration must be signed under oath and have an attached copy of the Notice of Electronic Filing for the document to which it refers, including the electronic document stamp. The clerk retains all Declarations of Electronic Filing forms that are submitted to the court "as part of the clerk's duty to maintain records." The declaration form is signed by both the petitioner and the attorney. In it, the petitioner declares under penalty of perjury, among other things, that the information he or she gave the attorney and other information contained in the petition, statements, and schedules, or amendments thereof, is true and correct to the best of petitioner's belief. The attorney signing the declaration certifies that the debtor signed the declaration and authorized the attorney to file the petition and schedules, that the attorney gave the debtor a copy of the petition and schedules being electronically filed, and that the petition and schedules identified in the accompanying Notice of Electronic Filing fully and accurately reflect the information given to the attorney by the debtor. Failure to file the signed original of the declaration is grounds for dismissal of the case.

District of New Mexico. Local Rule 5005-4.2 provides that "Any paper physically signed, and filed electronically or filed in paper form, and thereafter converted to an electronic document by the clerk, has the same force and effect as if the individual signed a copy of the paper. Verified papers signed electronically shall be treated for all purposes (both civil and criminal, including penalties for perjury) as if they had been physically signed or subscribed." In addition, Local Rule 9011-2 provides that "The Court will treat a duplicate signature as an original signature." The district has separate declaration/signature forms for the Petition and for Schedules and the Statement of Financial Affairs filed after the petition. For any other subsequent filings requiring a verified signature, the filing attorney must craft his/her own signature page, or prepare a form Debtor's Unsworn Declaration Under Penalty of Perjury.

Northern District of Illinois. Section II.C of the Administrative Procedures for the Case Management/Electronic Case Filing System for the U.S. Bankruptcy Court for the Northern District of Illinois provides that when a bankruptcy petition is filed electronically, it must be accompanied by a Declaration Regarding Electronic Filing form. The declaration must contain the original signature of the person whose signature is required on the document to which the declaration relates, and must be submitted in a form that can be accurately scanned. The declaration forms serve "as the required signature(s) on the petition and all other documents filed contemporaneously with the petition that must be signed by the debtor(s) or the representative of a non-individual debtor." A similar declaration is required for documents filed after the petition that require signatures of non-filers.

Northern District of West Virginia. The Local Bankruptcy Rules for the Northern District of West Virginia provide different options for handling the issue of signatures of non-registered CM/ECF Users. One option is for the filing user to submit a scanned PDF showing the actual signature(s) of those executing the document. When this option is used, there is apparently no retention requirement for the filing attorney. The second option, in the case of documents signed by a debtor, is for the debtor's attorney to retain an original signed copy of the court's form Declaration Re: Electronic Filing for a period of seven years from the date it was filed. Local Bankruptcy Rule 5005-4.08 provides that "The existence of a scanned pdf signature or a properly executed

Declaration Re: Electronic Filing . . . and debtor’s testimony at the Section 341 meeting of creditors are prima facie evidence of the existence, authenticity, and validity of the signatures on the original petition, schedules, and statement of affairs.”

The declaration form for the Northern District of West Virginia is signed by both the petitioner and his or her attorney. The petitioner declares that he or she consents to the electronic filing; acknowledges having reviewed the information in the petition and schedules; and, under penalty of perjury, declares that that information is correct. The attorney declares that the petitioner signed the declaration before the petition and other documents were filed.

Eastern District of Wisconsin. Under Local Bankruptcy Rule 5005.1, as an alternative to retaining hard copy documents for five years, the filer may have the original document, including any original signature, scanned and digitized, with the five-year retention period then applied to the scanned document rather than the original. The scanned document is deemed a counterpart that is intended by the person executing it to have the same effect as an original if that person signs and files in the case a Verification of Signature and Designation of Electronic Counterpart as Original. This document is signed by the debtor(s) under penalty of perjury and declares that any documents executed or issued by the signer and maintained by the filer in electronic format are intended to be a counterpart and have the same effect as an original pursuant to Federal Rule of Evidence 1001(3).

C. Courts with no declaration procedure or retention requirements

Four bankruptcy courts—the Eastern District of California, the Middle District of Pennsylvania, the Middle District of Tennessee, and the District of Columbia—have at least some situations in which they do not require retention of hard copy documents and also do not require a signed declaration to be filed.

Eastern District of California. Under Local Bankruptcy Rule 9004-1(c), retention of hard copy documents is required only if an “/s/Name” or a software-generated electronic signature is used. Retention is apparently not required if the filer submits a scanned copy of the originally signed document or a scanned copy of the signature page.

Middle District of Pennsylvania. The Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means do not mention a retention requirement and do not provide a declaration procedure. Clerk of Court Terry Miller confirmed that neither of these requirements exists in the court. He speculated that perhaps these were seen as unnecessary because the malpractice insurance companies might require attorneys to retain hard copies of signature-bearing documents, but this has not been verified.

Middle District of Tennessee. Clerk of Court Matt Loughney confirmed that the court is “silent” on the document-retention issue, even though the local U.S. trustee’s office has asked for such a requirement. When asked if there had ever been problems with respect to prosecutions, he relayed this story:

In the one case with a signature issue there was never any criminal referral. The debtor claimed he never signed his bankruptcy schedules and thus was not responsible for “failing” to disclose an asset. The attorney produced a blanket release signed by the debtor that said he was giving the attorney permission [to] file anything on his behalf. The judge

agreed with the attorney and found the debtor did fail to disclose and revoked the discharge.¹¹

District of Columbia. Under the Court's Administrative Procedures for CM/ECF, § II.B.4, the five-year retention requirement does not apply to a document that is filed with a scanned image of the original signature.

III. District Court Local Rules on Signatures and Retention¹²

During the Advisory Committee's discussion of the signature and retention issue at the September 2012 meeting, a question was raised about how district courts handle these issues when documents are filed electronically. To answer this question, we reviewed district court provisions for electronic filing of both civil and criminal cases. Appendix C (p. 51) contains a table summarizing each district's provisions.

The majority of district courts have a rule that applies the same procedures to the filing of documents with signatures of non-filing CM/ECF (Case Management/Electronic Case Files) users in both civil and criminal cases. Virtually all districts require retention of original documents bearing wet signatures of non-filing users,¹³ and generally the filing attorney is the one who must retain the documents. For documents filed in criminal cases only, several districts require the U.S. Attorney's Office to retain the original document. Other districts require certain documents, particularly those filed in criminal cases, to be retained by the clerk's office.

As with bankruptcy courts, the length of the required retention period and the time from which it begins running vary widely across district courts. The length-of-retention periods range from 35 days to six years, and most district procedures begin the retention period at the expiration of the appeal period or following final resolution of the case.

Our research did not reveal any district court procedures similar to the signature declaration form used in the U.S. Bankruptcy Court for the Northern District of Illinois and under consideration by the Subcommittee.

IV. Opinions on Alternative National Approaches to Signature and Retention Requirements in Bankruptcy Cases

The primary rationale for requiring attorneys to retain hard copies of documents bearing original signatures is to preserve evidence for any subsequent criminal prosecutions involving bankruptcy fraud or other bankruptcy-related crimes. To further inform the Subcommittee about implications of changing the national rules on these issues, we solicited input from the Executive Office

11. Personal communication via email from Matt Loughney to Molly T. Johnson, December 10, 2012.

12. Marie Leary, Research Associate at the Federal Judicial Center, conducted the research and analysis for this section.

13. The only minor exception is found in the Eastern District of Wisconsin's Electronic Case Filing Policies and Procedures Manual, § II.C.2.b, which provides that if the original document contains the signature of a criminal defendant, a third-party custodian, a U.S. marshal, an officer from the U.S. Probation Office, or some other federal officer or agent, then the clerk of court's office will scan the document, upload it into ECF, and dispose of the hard copy.

of U.S. Attorneys, the Executive Office of U.S. Trustees, and the National Association of Bankruptcy Trustees, a national organization for Chapter 7 trustees.

In our outreach to these groups, we asked for their opinions of several alternative ways in which the national rules could address signature and retention issues. The options presented included some previously considered by this Subcommittee as well as options that were endorsed by CACM in its letter to the Standing Committee chair. The following are the alternatives on which we asked for input:

Option A: Adopt a national rule specifying that an electronic signature of a non-registered user in the CM/ECF system is *prima facie* evidence of a valid signature.

Under this proposal, the original document with a manual (“wet”) signature would not have to be retained, and persons challenging the validity of a signature would have the burden of proving that the signature was not valid.

Option B: Adopt a national rule requiring that courts, rather than attorneys, retain copies of all originally signed paper documents that are filed electronically.

Option C: Adopt a national rule requiring that the petitioner or other non-registered user who has signed a document file a one-page declaration, under penalty of perjury, that (1) the information he/she has given to the filing attorney is true and correct; (2) petitioner (or other signer) has reviewed the documents being filed that bear his/her signature; and (3) the documents are true and correct. The signed original of the declaration would be filed with the clerk’s office. The clerk’s office would retain the original declaration (Option C1) or scan the declaration and discard the hard copy (Option C2).

Under either of these options, the filing attorney is not required to retain hard copies of the signed documents or the declaration.

Option D: Adopt a national rule specifying the retention period for hard copy documents with manual signatures.

Under this option, attorneys would continue to retain signed documents, but the retention period would be consistent across districts.

In addition to soliciting general reactions to these proposals, we also asked each group to share any experiences they had with bankruptcy cases, especially fraud prosecutions, in districts that had a version of that procedure.

A. Feedback from Executive Office of U.S. Attorneys

Staff at the Executive Office of U.S. Attorneys (EOUSA) sent to bankruptcy fraud prosecutors our inquiry regarding the various electronic signature options, and also tried to solicit input from others within the Department of Justice who prosecute fraud and related criminal cases. Because of the small number of responses received and other considerations, EOUSA declined to provide written input. However, we were able to obtain some feedback through informal conversations with staff. Because of the limited number of people on which this feedback is based, it should not be taken as representative of the views of federal prosecutors in general.

According to EOUSA staff, prosecutors who responded to our inquiry expressed a strong preference that debtors be required to affix handwritten signatures to all documents. While a pa-

per original of the signature is considered best from an evidentiary standpoint, a scanned image of the handwritten signature was seen as potentially “workable.” One issue raised was whether handwriting experts can perform analysis on scanned signatures, but this was not seen as the only way to surmount the evidentiary hurdle of proving someone actually signed a document in question. If case trustees check signatures at a 341 meeting, for example, their testimony could be an indicator of the reliability of a signature.

The prosecutors responding to our inquiry indicated they would be opposed to a rule that relied on an electronic “system” (e.g., a PIN number) as the signature. This would be particularly problematic in jury trials, because many jurors would not have experience with this type of electronic verification. It was seen as reasonable to put the burden on debtor’s counsel to scan handwritten signatures and file the scanned signature pages with the related electronic documents.

With respect to the “declaration” option under consideration by the subcommittee, prosecutors raised the concern that this procedure is vulnerable to the assertion that the declarant was not clear about which documents were covered by the declaration or did not see all of the referenced documents. Staff members with whom we spoke in the EOUSA were unable to uncover any instances of bankruptcy fraud prosecutions that had taken place in districts with the declaration procedure in place with no hard copy retention requirement, so there is no record on how difficult it is to establish these issues.

B. Feedback from Executive Office of U.S. Trustees

Lisa Tracy, of the Executive Office for United States Trustees, solicited input from each regional U.S. trustee regarding potential national rules changes and any experience trustees had with wet signature issues in their respective local practices. In this section we summarize the feedback she received; her complete memorandum to us, including a table of potential rules change options preferred by her respondents, can be found at Appendix D (p. 77).

Overall, of the 18 U.S. trustees responding to the inquiry, 15 indicated that Option D (a national rule setting a uniform retention period for documents with wet signatures) was their first preference, and for the remaining three it was their second preference. Two respondents favored Option B (requiring courts, rather than attorneys, to retain the documents bearing wet signatures), and one favored Option A (a rule stating that an electronic signature was prima facie evidence of a valid signature). Three respondents indicated that their second-most-favored option was C (the declaration option). A table of all ranked responses can be found at the end of Appendix D.

In explaining their support for the alternative involving adoption of a national rule specifying the retention period for documents with wet signatures of non-registrants, several U.S. Trustees suggested that this would be the least disruptive alternative, since most courts already have retention requirements in place. Those who supported this alternative also indicated that the requiring hard copies to be retained significantly advances their mandate to prevent fraud and abuse in the bankruptcy system. Some of the U.S. trustees who favored this approach also thought it would be helpful to require non-registrants, especially those appearing pro se, to electronically submit a scanned PDF copy of the original signature page of a filed document.

The U.S. trustees responding to Ms. Tracy’s inquiry expressed concern about proposed alternatives that would not require retention of hard copy documents bearing “hand” signatures, whether wet (original) or a copy. Specifically, their concern was that without such signatures, criminal prosecutors might not have enough evidence to prosecute cases of bankruptcy fraud or

other bankruptcy-related crimes. Some U.S. trustees reported anecdotally that in some jurisdictions prosecutors will decline to prosecute cases in which documents with a party's hand signature are unavailable.

Some U.S. trustees also expressed the concern that, in the absence of a requirement for documents with a party's hand signature to be retained, they could be compromised in their ability to combat abusive conduct in bankruptcy cases. For example, they reported that in some cases challenges to a debtor's ability to receive a discharge under 11 U.S.C. § 727(a)(4)(A) have been met with the claim that the debtor never signed the document providing the basis for the challenge, or that the debtor signed a different version of the document. Such claims are much more difficult to refute in the absence of the signed document.

C. Feedback from National Association of Bankruptcy Trustees

Raymond Obuchowski, Esq., distributed our inquiry to the full membership of the National Association of Bankruptcy Trustees (NABT), an organization of Chapter 7 trustees. We received responses from seven trustees. Their full responses are set forth in Appendix E (p. 81), and summarized here. Because of the small number of responses, they probably should not be interpreted as representative of the full membership.

Three trustees indicated that they favored some form of the declaration option (Option C); all three of those who did are from districts that have a declaration procedure (N.D. Ill.; D. Minn.; and D. Mass.). Others, however, pointed out problems with the declaration option. Two indicated that **some attorneys have debtors sign the declaration form before the petition and other documents are prepared, sometimes even at the first meeting. They also noted instances where a declaration was filed with no date on it.**

None of the responding trustees endorsed Option A, under which an electronic signature is considered prima facie evidence of a valid signature. They mentioned **instances in which attorneys fail to have their clients review documents that have been prepared.** If a debtor did not agree to having his or her electronic signature put on a document, he or she has no way of proving that the signature is not valid. As one responding trustee said:

Unfortunately, there is an attorney in my district [who] does not think his clients need to review the petition, schedules, financial affairs before filing and sign these documents with a wet signature. I have reported his practice to the US Trustee with proof. If no retention is required, you will be telling this attorney that his practice of not having his clients review and sign documents is OK.

From the other side, as one trustee pointed out, requiring original signatures from debtors makes it more difficult for them to claim that their attorney put erroneous information in the petition or other documents without their knowledge.

Several of the responding trustees made suggestions about other possible rules changes, including:

- Have all wet signature pages scanned and e-filed, with a national retention period for the wet signatures (e.g., 3 years).
- **Require debtors to initial every page of the petition (including amendments) before filing, without requiring hard copy retention.**

- Allow a scanned digital copy of the petition and other signed documents to be filed, without a retention requirement (“it’s highly unlikely that attorneys will forge their client’s signatures”).
- Allow any retained document to be a scanned copy with a blue ink signature (the trustee who suggested this accepts these at 341 meetings).

V. OMB Report on Use of Electronic Signatures in Federal Organization Transactions

On January 25, 2013, the General Services Administration and the Federal Chief Information Officers (CIO) Council published *The Use of Electronic Signatures in Federal Organization Transactions, Version 2.0*, a report requested by the Office of Management and Budget (OMB).¹⁴ This document focuses on the use of electronic signatures for legal signing purposes in the context of electronic transactions. It provides guidance to federal organizations regarding electronic signatures, and particularly compliance of such signatures with the Government Paperwork Elimination Act of 1998 (GPEA), the **Electronic Records and Signatures in Global and National Commerce Act (E-SIGN), and the Uniform Electronic Transactions Act (UETA).**

Based on the above-mentioned statutes and applicable evidentiary requirements for admissibility, the report’s authors concluded that “creating a valid and enforceable signature requires satisfying the following signing requirements”:

1. A person (i.e., the signer) must use an acceptable electronic **form of signature**;
2. The electronic form of signature must be executed or adopted by a person with the **intent to sign** the electronic record (e.g., to indicate a person’s approval of the information contained in the electronic record);
3. The electronic form of **signature must be attached to or associated with the electronic record** being signed;
4. There must be a means to **identify and authenticate** a particular person as **the signer**; and
5. There must be a means to preserve the **integrity of the signed record**.¹⁵

The report provides more detail about various ways in which each of these requirements could be implemented. While the OMB report is not binding on federal organizations, its recommendations appear to be relied on by at least some agencies. For example, on January 22, 2013, the Internal Revenue Service issued an announcement seeking recommendations for electronic signature standards, and proposed that any recommendations include the above-noted “core signing requirements.”¹⁶

14. Office of Management and Budget, *Use of Electronic Signatures in Federal Organization Transactions, Version 1.0* (Jan. 25, 2013), available at https://www.idmanagement.gov/IDM/servlet/fileField?entityId=ka0t0000000KyuFAAS&field=File__Body__s.

15. *Id.* (emphases in original).

16. Internal Revenue Service Announcement 2013-8 (Jan. 22, 2013).

VI. Conclusion

The vast majority of bankruptcy and district courts currently require attorneys to retain hard copies of documents bearing original signatures of non-registrants of CM/ECF. Any rules change that does away with such requirements would alter current practice significantly. Given the input from prosecutors, U.S. trustees, and case trustees, it is possible that requiring a scanned image to be retained, rather than a “wet” or hard copy signature, would be more palatable to many, and would take advantage of some of the benefits of current technology. If the subcommittee proceeds with developing a proposal for submission of a declaration in lieu of retaining hard copies, specific provisions within the proposal should address the following: whether the declaration form is retained by the filing attorney or the clerk of court; whether the declaration is retained in hard copy form or as a scanned image; when the declaration is signed relative to the filing of the documents to which it refers; whether the attorney must also sign the declaration; and the exact attestations the signer makes in signing the declaration.

Appendix A

Local Bankruptcy Court Procedures on Signatures of Non-Filing Users of CM/ECF and Retention of Signed Documents¹⁷

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
First Circuit				
Maine				
Administrative Procedures for Filing, Signing, Maintaining, and Verifying Pleadings and Other Documents in the ECF System	2 years after close of case or expiration of appeals period, whichever is later	Attorney (filer)	No	
Massachusetts				
Electronic Filing Rules, Rule 7; MLBR Official Local Form 7	5 years after close of case	Attorney retains signed documents and declaration	Yes	Filed as an imaged document; valid for all subsequently-filed documents requiring a signature in the case.
New Hampshire				
A.O. 5005-4(d)(3) L.B.F. 5005-4A L.B.F. 5005-4B	None	Clerk of court retains hard copy declaration	Yes	Paper copy of declaration filed within 7 days of associated document; must attach copy of Notice of Electronic Filing with electronic document stamp
Puerto Rico				
Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means	2 years after closing of case, unless court orders otherwise	Attorney (filer)	No	
Rhode Island				
L.B.R. 5005-4(j)	2 years after case is closed	Attorney (filer)	No	

17. Tae Kim, student intern at the Federal Judicial Center, assisted with the research for this appendix.

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Second Circuit				
Connecticut				
Standing Order No. 7; Administrative Procedures for Electronic Case Filing	5 years after conclusion of case	Attorney (filer)	No	
E.D. New York				
Administrative Procedures for Electronically Filed Cases	2 years after entry of final order terminating case	Attorney (filer)	No	
N.D. New York				
Administrative Procedures for Filing, Signing, and Verifying Documents § III	2 years after closing of case and expiration of appeals period unless court orders otherwise	Attorney (filer)	No	
S.D. New York				
In re Electronic Means for filing, signing, and verifying documents, Exhibit 1	Later of 2 years or entry of final order terminating case or proceeding	Attorney (filer)	No	
W.D. New York				
Amended Administrative Procedures for filing, signing, and verifying pleadings and papers electronically	Not less than 5 years after closing of case	Attorney (registered user)	No	
Vermont				
L.B.R. 1002-1; L.B.R. 9011-1(b) L.B.R. 9011-2(b)	5 years	Attorney or pro se party (all documents requiring original signature)	No ¹⁸	

18. Vermont formerly had a Declaration requirement, but new local rules effective as of October 15, 2012, have omitted this procedure.

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Third Circuit				
Delaware				
L.R. 5005-4	Not less than 2 years from closure of case or proceeding unless otherwise ordered	Attorney (CM/ECF user)	No	
New Jersey				
L.B.R. 5005-1 Administrative Procedures for Filing, Signing and Verifying Documents by Electronic Means	7 years from dates of closure of case or proceeding in which document is filed	Attorney (“Participant”)	No	
E.D. Pennsylvania				
L.B.R. 5005 Standing Order MO3-3005 re: Electronic Case Filing (Apr. 1, 2003)	3 years after the main case is closed	Attorney (filing user)	No	
M.D. Pennsylvania				
L.B.R. 5005-4 Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means.	None specified	N/A	No	
W.D. Pennsylvania				
L.B.R. 5005-7, 5005-15 L.B.F. 1A	Six years from date of case closing	Attorney (filing user)	Yes	Declaration (Form 1A) filed within 14 days of electronic filing of petition. Certifies information given to attorney is true and correct. Original executed paper version is filed.

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Third Circuit, <i>cont'd</i>				
Virgin Islands				
L.B.R. 5005-1 ECF Procedure #7 L.B.F. 1 and 1A	Six years from date of filing	Attorney (filing user)	Yes	Declaration (Form 1 or 1A) filed within 15 days of electronic filing of petition. Certifies information given to attorney is true and correct. Original executed paper version is filed.
Fourth Circuit				
Maryland				
L.B.R. 5005-1 L.B.R. 9011-2, 9011-3; Administrative Order 03-02 § 9	Three years after case is closed	Attorney or other person responsible for electronic transmission to court	No	
E.D. North Carolina				
L.B.R. 5005-4(7)	Four years after closing of case or proceeding in which document was filed	Attorney (filing user)	No	
M.D. North Carolina				
L.B.R. 5005-4(7)	Four years after closing of case or proceeding in which document was filed	Attorney (filing user)	No	
W.D. North Carolina				
L.B.R. 5005-1(g)	Four years after case is closed	Attorney	No	
South Carolina				
Operating Order 08-07 – Guidelines for the Filing of Documents	Until case or adversary proceeding is closed and appeals time has expired; if case is dismissed, for 3 years	Attorney or (if no attorney) party originating document	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Fourth Circuit, <i>cont'd</i>				
Virginia-Eastern L.B.R. 5005-2 CM/ECF Policy Statement	3 years after closing of case	Attorney (user); may retain imaged copy in lieu of original if does this in ordinary course of business	No	
W.D. Virginia- L.B.R. 5005-4	3 years after case dismissal or closing, unless otherwise ordered	Attorney (user)	No	
N.D. West Virginia L.B.R. 5005-4.08 L.B.R. 5005-4.09 G.O. 12-01	If electronic (typed) signature is filed, hard copies must be retained until the later of final case disposition or expiration of statute of limitations.	Attorney	Yes, if documents w/signatures submitted in electronic form other than scanned PDF	
S.D. West Virginia Administrative Procedures for Electronic Filing	No less than one year from closing of case	Attorney (registered filer)	No	
Fifth Circuit				
E.D. Texas Appendix 5005 Administrative Procedures for the Filing, Signing and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts	5 years after closing of case or adversary proceeding, unless otherwise ordered by court	Clerk of court retains paper copy of declaration; attorney (electronic filer) retains documents bearing original signatures	Yes	Declaration filed in paper format within 5 days of electronically-filed document

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Fifth Circuit, <i>cont'd</i>				
N.D. Texas Administrative Procedures for the Filing, Signing and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts	5 years after closing of case or adversary proceeding, unless otherwise ordered by court	Clerk of court retains paper copy of declaration; attorney (electronic filer) retains documents bearing original signatures	Yes	Declaration filed in paper format within 5 days of electronically-filed document
S.D. Texas Administrative Procedures for the Filing, Signing and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts	5 years after closing of case or adversary proceeding, unless otherwise ordered by court	Clerk of Court retains paper copy of Declaration; Attorney (Electronic Filer) retains documents bearing original signatures	Yes	Declaration filed in paper format within 5 days of electronically-filed document
W.D. Texas Administrative Procedures for the Filing, Signing and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts	5 years after closing of case or adversary proceeding, unless otherwise ordered by court	Clerk of Court retains paper copy of Declaration; Attorney (Electronic Filer) retains documents bearing original signatures	Yes	Declaration filed in paper format within 5 days of electronically-filed document
E.D. Louisiana L.R. 9011-4(b) ("new" rules referred to have since been adopted")	Not less than 1 year after case is closed; <i>New proposed L.R. 9011-1(b)(2) says retention for 5 years after case is closed</i>	Attorney of record or party originating document; <i>if new rules go into effect, clerk's office will retain original declaration form with signature(s)</i>	No; L.R. 1008-1 requires filing of Declaration Regarding Electronic Filing	<i>Under proposed new rule, original declaration must be filed within 7 days after filing petition</i>

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Fifth Circuit, <i>cont'd</i>				
M.D. Louisiana L.R. 1008-1 Local Forms 2 and 3	No less than 5 years after closing of case or adversary proceeding in which document was filed	Attorney (electronic filer); clerk retains original of declaration	Yes	Debtor (Form 2) – within 7 days after filing petition; persons other than debtor (Form 3) – within 5 days of filing document
W.D. Louisiana Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means	At least 5 years after case is closed. In adversary proceedings, at least 5 years after time for appeals has expired and adversary proceeding is closed.	Attorney of record or party filing document; retention of declaration follows same time periods	Yes	Filed no later than 48 hours following the date the petition was electronically filed. Can be scanned and filed electronically if filer is registered participant, or original may be filed conventionally.
N.D. Mississippi L.R. 5005-1(a)(2)(A); Administrative Procedures for Electronic Case Filing	Until case or adversary proceeding is closed and all maximum allowable times for appeals have expired	Attorney of record or party originating document	No	
S.D. Mississippi L.R. 5005-1(a)(2)(A); Administrative Procedures for Electronic Case Filing	One year after the case is closed	Attorney (filer)	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Sixth Circuit				
E.D. Kentucky Administrative Procedures Manual, II.F	2 years after closing of case or proceeding or after all time periods for appeals have expired	Attorney (filing user)	No	
W.D. Kentucky L.R. 9011-1	2 years following expiration of time for appeals	Attorney (filer)	No	
E.D. Michigan ECF Procedures 10 & 11	5 years after closing of case or adversary proceeding	Attorney (filer or user)	No	
W.D. Michigan L.B.R. 1008; L.B.R. 9011; ECF Administrative Procedures Exhibit 12 (Declaration re: Electronic Filing)	5 years from date of filing	Attorney (ECF filer); court retains original of declaration	Yes	Filed separately in paper form within 5 days of petition being filed (declaration form itself says 7 days); clerk makes text entry in electronic docket that is has been filed, but it's not available for public viewing
N.D. Ohio L.R. 5005-4; ECF Administrative Procedures Manual	1 year following closing of case	Attorney (user)	Yes	Expected to be mailed to court on the same day as electronic filing of initial document requiring debtor's signature (usually petition); if not received within 7 days of electronic filing, show cause hearing is scheduled.

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Sixth Circuit, <i>cont'd</i>				
S.D. Ohio L.B.R. 5005-4; Administrative Procedures for ECF, 7 and 8	Minimum of 2 years from closing of case or proceeding	Attorney (filer or user)	No	
E.D. Tennessee L.B.R. 5005-4; Administrative Procedures for ECF	2 years after closing of case	Attorney (filing attorney)	No	
M.D. Tennessee Administrative Procedures for ECF 6	None		No	
W.D. Tennessee Amended Guidelines for Electronic Filing 5 and 6	5 years after case or proceeding is closed—pages containing original signatures must be retained	Attorney	No	
Seventh Circuit				
C.D. Illinois Third Amended General Order Authorizing Electronic Case Filing	Until all time periods for appeals expire	Attorney (filing user)	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Seventh Circuit, cont'd				
N.D. Illinois L.B.R. 5005-1; Administrative Procedures for the CM/ECF System § II.C.1; Local Form Declarations	None		Yes	Separate declaration forms for (1) petition and accompanying documents and (2) other documents. Must accompany petition (or other document) but is filed as separate document. Must contain original signature of person whose signature is required on related document and be in a form that can be accurately scanned. Scanned copy of declaration serves as clerk's permanent record.
S.D. Illinois L.B.R. 5005-3; Electronic Filing Rules 5 and 10	5 years after close of case	Attorney (attorney/participant)	No	
N.D. Indiana L.B.R. 5005-2	At least 3 years following the closing of the case	Attorney (filing attorney)	No	
S.D Indiana L.B.R. 5005-4; Administrative Policies and Procedures Manual for ECF	2 years after closing of case or as otherwise ordered by the court	Attorney (e-filer)	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Seventh Circuit, cont'd				
E.D. Wisconsin L.B.R. 1008; L.B.R. 5005.1; Form Verification of Signature and Designation of Electronic Counterpart as Original	5 years after close of case unless otherwise ordered by Court	Attorney (filer)	As alternative to retaining hard copy for 5 years, filer may have original document scanned, digitized, and electronically stored for 5 years if Verification of Signature and Designation of Electronic Counterpart as Original is signed and filed.	Verification is filed electronically
W.D. Wisconsin CM/ECF Administrative Procedures § 2.D; Form Declaration re: Electronic Filing	Retention period not specified, but procedures say that upon request, original signed documents must be provided and that “for evidentiary purposes the parties are encouraged to retain the original document in their records.”	Not specified for signed documents; court retains declaration	Yes	Hard copy of declaration filed within 5 days of electronic filing of petition. Paper copy retained by court “in conformity with its normal internal procedures regarding paper files.”

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Eighth Circuit				
E.D. Arkansas L.B.R 5005-4; Administrative Procedures for Electronically Filed Cases and Related Documents §D.6	No less than 3 years after case is closed; procedures specify that retention of documents is “for audit purposes.”	Attorney	No	
W.D. Arkansas L.B.R 5005-4; Administrative Procedures for Electronically Filed Cases and Related Documents § D.6	No less than 3 years after case is closed; procedures specify that retention of documents is “for audit purposes.”	Attorney	No	
N.D. Iowa L.B.R. 5005-4; Administrative Procedures for Filing, Signing, Verifying, and Maintaining Pleadings and Other Papers in the Electronic Case Filing (ECF) System	5 years after case is closed	Attorney (filer)	No	
S.D. Iowa CM/ECF E-Filing Manual: Before You File/Preparing Documents for E-Filing	Until appellate period expires	Attorney	No	
Minnesota L.B.R. 5005-1; L.B.R. 9011-4; Form Signature Declaration	None		Yes	When original signature is required, filing user shall submit either scanned image of Signature Declaration or the electronic document with a scanned image of the signature page signed by debtor

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Eighth Circuit, cont'd				
E.D. Missouri				
L.B.R. 5005.A.; L.B.R. 9011	2 years after close of case unless Court orders different time period	Attorney (person filing or submitting document)	No	
W.D. Missouri				
L.B.R. 1007-1.D.; L.B.R. 5005-1; L.B.F. 1007-1.3 (Declaration re: Electronic Filing); CM/ECF Administrative Procedures	Not less than 2 years after case is closed	Attorney	Yes	Filed electronically on the day the original petition is filed electronically (although L.B.R. 1007-1-D says within 7 days). Contains full SSN of debtor; maintained as private entry in court file and cannot be viewed by public.
Nebraska				
L.B.R. 5005-1; L.B.R. 9011-1; Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means	At least 1 year after case is closed; for adversary proceedings, until after case ends and time for appeal has expired	Attorney of record or party originating document	No	
North Dakota				
L.B.R. 5005.1; CM/ECF Administrative Procedures	6 years after case is closed	Attorney (filing user)	No	
South Dakota				
L.B.R. 5005-4; ECF Administrative Procedures	Not less than 5 years after case is closed, unless Court directs different period	Attorney or limited user	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Ninth Circuit				
Alaska				
L.B.R. 5005-4; L.B.F. 37A and 37B	None		Yes; separate forms for individuals and corporations	Declaration must be signed before the petition is filed and filed conventionally within 14 days of the date the petition is electronically filed. Rule states that “The declaration constitutes the debtor(s)’ original signature for filing purposes.”
Arizona				
L.B.R. 5005(2); Administrative Procedures for Electronically Filed Cases §§ 2D and 2H; Form Declaration re: Electronic Filing	Longer period of 1 year after case is closed or all appeals are finalized, unless Court orders otherwise	Attorney (attorney or other user)	Yes	Original declaration filed with clerk after all schedules and statements have been filed electronically, no later than 20 days after petition was filed.
C.D. California				
L.B.R. 5005-4; § 3.4 of Court Manual (CM/ECF Procedures); Form ECF Declarations	5 years after closing of case or adversary proceeding in which document is filed	Attorney (attorney or other CM/ECF user electronically filing document)	Yes; separate forms for individuals and corporations	Scanned copy of Declaration to accompany electronically-filed documents
E.D. California				
L.B.R. 9004-1(c)	3 years following close of case – retention only required if “/s/ Name” or software-generated electronic signature is used; apparently not required if filer submits scanned copy of originally signed document or scanned copy of signature page attached to electronic document	Attorney (registered user)	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Ninth Circuit, <i>cont'd</i>				
N.D. California				
L.B.R. 5005-2; ECF Procedures §§ 8 and 9	5 years after case or adversary proceeding in which the document was filed is closed	Attorney (registered participant)	No	
S.D. California				
Amended Bankruptcy G.O. 162; Administrative Procedures and Guidelines for EF, §§2b. and 2c, Local Form CSD 1801.	5 years after case is closed or adversary proceeding terminated	Attorney (registered user)	Yes	Filed electronically providing original debtor(s)' signature in scanned format; filed within 14 days of filing of petition.
Guam				
G.O. 09-00007; Administrative Procedures for the Electronic Filing, Signing, Verifying, and Serving of Bankruptcy Documents	2 years after all time periods for appeals expire	Attorney (ECF filer)	Yes	Filed in paper form not later than 5 business days after the date of electronic filing of the subject document(s).
Hawaii				
L.B.R. 5005-4(f); Form Declaration	1 year after case or proceeding is closed; in lieu of originally signed paper document, ECF User may produce the document's scanned image with the digital file's "date modified" information attached.	Attorney (ECF user)	Yes	Paper copy of declaration with original signature filed within 7 days after the date of the electronic filing of the subject document.

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Ninth Circuit, <i>cont'd</i>				
Idaho				
L.B.R. 5003.1	No less than maximum time to complete any appellate process or the time the case is closed, whichever is later.	Attorney (filing party)	No	When original or amended petition, schedules, and SOFA are filed, attorney must electronically submit scanned pdf copy of original signature page.
Montana				
L.B.R. 1007-1(f). L.B.R. 9011-1(b)	Original signed documents must be retained in paper form for a period of five years after the case is closed.	Attorney (filer)	No	
Nevada				
L.B.R. 5005; Electronic Filing Procedures § VIID and XI; L.B.R. 9004; Form NV 5005.2	Later of 5 years or maximum allowable time to complete appellate process. Declaration must also be retained	Attorney (filing user)	Yes	Declaration must be signed before documents are electronically filed, and Declaration must be filed within 14 days, either by electronic or conventional means. If Declaration is filed electronically, image of original must be attached to document(s) in PDF format
Oregon				
L.B.R. 5005-4; Administrative Procedures for ECF system	Later of closing of case or 5 years after filing for documents under FRBP 1008	Attorney (filing user)	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Ninth Circuit, <i>cont'd</i>				
E.D. Washington L.B.R. 5005-3	Not less than 5 years, maximum allowable time to complete appellate process, or the case or adversary proceeding is closed, whichever is later; retention is of document containing original signature or copy made in the ordinary course of business	Attorney (filing party)	No	
W.D. Washington L.B.R. 5005-1; Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means	Not less than 5 years	Attorney (attorney of record or party originating document)	No	
Tenth Circuit				
Colorado Amended Administrative Procedures for Electronic Case Filing § II.D; L.B.F. ECF-2; L.B.R. 5005-4(k).	2 years following expiration of all time periods for appeals after entry to final order terminating case or proceeding.	Attorney (electronic filer)	No ¹⁹	

19. The original administrative procedures for Colorado (2002) required a declaration when documents requiring the signature of a debtor were filed, but that provision is not in the amended administrative procedures (2007).

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Tenth Circuit, <i>cont'd</i>				
Kansas				
L.R. 5.4.7; 5.4.8; and 83.8.2. L.B.R. 5005.1(VII). L.B.R. 1007.1(a)(3).	6 years after all time periods for appeals expire	Attorney (filing user)	Yes	Initial filings: When filing for bankruptcy petition electronically, counsel must submit Declaration Re: Electronic Filing in lieu of Official Form 21.
New Mexico				
L.B.R. 5005-4.2; 5005-4.3; 9011-4; L.B.F. 902, 903; Electronic Filing Procedures	None		Yes	Separate declaration/signature forms for petition and schedules and SOFA filed after petition. For subsequent filings requiring verified signature, attorney must craft own signature page, or prepare Debtor's Unsworn Declaration Under Penalty of Perjury. Documents with debtor signature are electronically filed using scanning technology. L.B.R. 5005-4.2 states that "verified papers filed electronically shall be treated for all purposes (both civil and criminal, including penalties for perjury) as if they had been physically signed or subscribed." L.B.R. 9011-4 states that "The court will treat a duplicate signature as an original signature."
E.D. Oklahoma				
L.B.R. 9011-1, 9011-3; CM/ECF Administrative Guide § XI.C.	At least 1 year after case is closed.	Attorney (attorney of record or party originating document)	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Tenth Circuit, <i>cont'd</i>				
N.D. Oklahoma				
L.B.R. 9011-1; CM/ECF Administrative Guide § XI.C	At least 1 year after case is closed	Attorney (attorney of record or party originating document)	No	
W.D. Oklahoma				
General Order: Guidelines for Electronic Case Filing, §§ 6.E, 10. Form A: Electronic Case Filing System Attorney Registration Form	1 year after all time periods for appeals from any ruling or decision in bankruptcy case or adversary proceeding have expired	Attorney (registered participant)	Yes	Completed Declaration Regarding Electronic Filing of Petition and Schedules form must be submitted and returned mailed to the court address.
Utah				
L.B.R. 5005-2; ECF Protocols II.B.5	5 years after all time periods for appeals expire	Attorney (filing user)	No	
Wyoming				
ECF Participant Registration Form ²⁰	Not less than 5 years	Attorney of record or party originating document	No	
Eleventh Circuit				
M.D. Alabama				
L.B.R. 9011-1(b)(2) L.B.R. 1002-1(2); Local Form 1	4 years after closing of case (apparently only for documents that can't be filed in scanned form)	Attorney (authorized participant)	Yes	Petitions filed by lawyers shall be accompanied by a Declaration re: Electronic Filing of Petition, Schedules & Statements, on Local Form 1.

20. Wyoming is not a mandatory ECF court.

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Eleventh Circuit, cont'd				
N.D. Alabama Administrative Procedures for Filing, Signing, Retaining, and Verification of Pleadings and Papers in the CM/ECF System I.I.C(1)	3 years after closing of case	Attorney (filer)	No	
S.D. Alabama L.B.R. 1007(b)-1	Not less than 6 years from date of case closing	Attorney.	No	
M.D. Florida L.B.R. 5005-2, 9011-4; Declaration for Electronic Filing	4 years after closing of case	Attorney	Yes, for any verified document not containing an original signature	Filed in PDF format, containing image of original signature of party signing the paper
N.D. Florida Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means	4 years after the closing of the case	Attorney (attorney or other registered user); clerk retains originals in pro se cases	No	
S.D. Florida L.B.R. 1002-1(4), 1007-1(D), 5005-4(c), and 9011-4(c)	5 years from the date of discharge, dismissal of case, or resolution of appeals, whichever is later	Not specified	Yes	Filed with petition and with schedules or statements filed separately from petition unless they contain an imaged signature
M.D. Georgia L.B.R. 5005-4(b)(3); Clerk's Instructions § II(c)(3)	1 year after closing of case	Attorney	No	

Bankruptcy Court/Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?	Procedures for Filing Declaration
Eleventh Circuit, cont'd				
N.D. Georgia L.B.R. 5005-7(c)(3); CM/ECF Administrative Procedures; L.B.F. 5005-7(c)(3)(B)	1 year after case or proceeding is closed	Attorney (person filing a verified paper)	Yes	Declaration in imaged format filed simultaneously with documents referenced
S.D. Georgia Local Bankruptcy Rules for ECF 7	5 years after conclusion of all appeals or expiration of time for filing an appeal, whichever is later	Attorney (filer)	No; but non- filing signatory or party who disputes authenticity of signature must file an objection within 7 days of receiving the Notice of Electronic Filing	
District of Columbia L.B.R. 5005-4; Administrative Order Relating to Electronic Case Filing (July 7, 2011); Administrative Procedures for Filing, Signing, and Verifying Documents by Electronic Means	5 years from filing of document; can be retained in paper form or electronically (scanned signature); retention requirement does not apply to document filed with scanned image of original signature	Attorney (user)	No	

Appendix B
Declaration Provisions in Courts Not Requiring Retention of Hard Copy Documents Bearing Signatures of Non-Registrants

District of Alaska

Local Bankruptcy Rule 5005-4 Electronic Case Filing

...(c) **Signatures.**

.....(2) *Debtors.*

[A] For all petitions, lists, schedules and statements requiring the signature of the debtor(s) that are filed electronically, a Declaration Re: Electronic Filing, AK LBF 37A or 37B, as applicable, must be prepared by the participant, bearing the original signatures of the debtor(s) and the attorney for debtor(s).

[B] The declaration constitutes the debtor(s) original signatures for filing purposes.

[C] The original declaration must be:

- (i) signed before the petition is filed; and
- (ii) filed conventionally with the Bankruptcy Court within fourteen (14) days of the date the petition is electronically filed.

Alaska Local Bankruptcy Form 37A

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

Case No.

Chapter

**DECLARATION RE: ELECTRONIC
FILING
OF PETITION, SCHEDULES,
STATEMENTS, OF 23, AND PLAN IF
CHAPTER 11, 12, OR 13 CASE**

Debtors.

Part I - Declaration of Petitioner(s)

I [We] _____ and _____,
the undersigned debtor(s), hereby declare under penalty of perjury that the information given or to be given my [our] attorney and the information provided in the electronically filed petition, statements, schedules, matrix, OF 23 and in my [our] chapter 11, 12 or 13 plan (if this is a case under such chapter) and any amendments thereto, is or will be true and correct. I [We] consent to my [our] attorney sending my [our] petition, statements and schedules (and plan, if applicable) and any amendments thereto, and our OF 23, to the United States Bankruptcy Court electronically. I [We] understand that this Declaration re: Electronic Filing is to be filed with the Clerk not later than 14 days following the date the petition is electronically filed. I [We] understand that failure to file the signed original of this Declaration will result in the dismissal of my [our] case after a hearing on shortened time of no less than five days' notice.

[] If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7: I am [We are] aware that I [we] may proceed under chapter 7, 11, 12 or 13 of 11 United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I [We] request relief in accordance with the chapter specified in this petition.

Dated:

Signed: _____
(Applicant)

(Joint Applicant)

Part II - Declaration of Attorney

I **declare under penalty of perjury** that the debtor(s) signed this form before I electronically submitted the petition, schedules, and statements (and chapter 11, 12 or 13 plan, if applicable). Before filing, I will give the debtor(s) a copy of all documents to be filed with the United States Bankruptcy Court, and have followed all other requirements in the most recent ECF System Procedures. I further declare that I have examined or will examine the debtor's petition, schedules, and statements and any amendments thereto, as well as the debtor's OF 23, and, to the best of my knowledge and belief, they are or will be true, correct, and complete. I further declare that I have informed the petitioner(s) that [he or she or they] may proceed under chapter 7, 11, 12 or 13 of Title 11, United States Code, and have explained the relief available under each such chapter. This declaration is based on all information of which I have knowledge.

Dated:

Attorney for Debtor(s)

**Northern District of Illinois
Administrative Procedures for the
Case Management/Electronic Case Filing System**

...II.C. Signatures

II.C.1. Original Non-Attorney Signatures

II.C.1.a. Petitions and Accompanying Documents

When a bankruptcy petition is filed electronically, the petition must be accompanied by a Declaration Regarding Electronic Filing. The Declaration will serve as the required signature(s) on the petition and all other documents filed contemporaneously with the petition that must be signed by the debtor(s) or the representative of a non-individual debtor.

II.C.1.b. Documents Filed After Petition

Except for petition filings covered by subparagraph II.C.1.a, if any document filed electronically, including those documents listed in Fed. R. Bankr. P. 1008, must be signed by a person other than the Registrant filing the document, a Declaration Regarding Electronic Filing signed by each person whose signature is required must accompany the document.

II.C.1.c. Requirements

A Declaration Regarding Electronic Filing must

- (a) be in a form approved by the clerk;
- (b) be filed as a separate document for docketing, not as an attachment to the document requiring signature;
- (c) be dated;
- (d) identify the document to which the Declaration relates;
- (e) contain an original signature of the person whose signature is required on the document to which the Declaration relates; and
- (f) be in a form that can be accurately scanned.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

Chapter
Bankruptcy Case No.

Debtors.

DECLARATION REGARDING ELECTRONIC FILING
PETITION AND ACCOMPANYING DOCUMENTS

DECLARATION OF PETITIONER(S)

A. [To be completed in all cases]

I (We), _____ and _____ the undersigned debtor(s), corporate officer, partner, or member hereby declare under penalty of perjury that (1) the information I (we) have given my (our) attorney is true and correct; (2) I (we) have reviewed the petition, statements, schedules, and other documents being filed with the petition; and (3) the documents are true and correct.

B. [To be checked and applicable only if the petition is for a corporation or limited liability entity.]

[] I, _____, the undersigned, further declare under penalty of perjury that I have been authorized to file this petition on behalf of the debtor.

Printed or Typed Name of Debtor or Representative

Printed or Typed Name of Joint Debtor

Signature of Debtor or Representative

Signature of Joint Debtor

Date

Date

District of Minnesota

**Local Bankruptcy Rule 9011-4
Signatures**

...(d) **ELECTRONIC SIGNATURES – DEBTORS.** When an original signature of a debtor, authorized individual or joint debtor is required on the (1) petition, schedules and statements; (2) amendment to petition, schedules and statements; (3) chapter 13 plan; or (4) modified chapter 13 plan, the Filing User shall submit either a scanned image of the Form ERS 1 Signature Declaration signed by the debtor(s) or the electronic document with a scanned image of the signature page signed by the debtor(s). The scanning of documents is governed by Local Rule 9004-1(e).

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

SIGNATURE DECLARATION

Debtor(s).

Case No. _____

- ___ PETITION, SCHEDULES & STATEMENTS
- ___ CHAPTER 13 PLAN
- ___ SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION
- ___ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
- ___ MODIFIED CHAPTER 13 PLAN
- ___ OTHER (Please describe: _____)

I [We], the undersigned debtor(s) or authorized representative of the debtor, **make the following declarations under penalty of perjury:**

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the “Debtor Information Pages” submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- **[individual debtors only]** If no Social Security Number is included in the “Debtor Information Pages” submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed “Debtor Information Pages,” if applicable; and
- **[corporate and partnership debtors only]** I have been authorized to file this petition on behalf of the debtor.

Date: _____

X _____
Signature of Debtor or Authorized
Representative

X _____
Signature of Joint Debtor

Printed Name of Debtor or Authorized
Representative

Printed Name of Joint Debtor

District of New Hampshire

Administrative Order 5005-4

...(d) Signatures and Declarations Regarding Electronic Filing

... (3) Documents Containing Original Signatures Under Oath Require Submission of Declaration Regarding Electronic Filing. If a document that is electronically filed contains an original signature under oath, other than that of the Filing User, a paper copy of a Declaration Regarding Electronic Filing must be submitted to the Court within seven (7) days. Examples of documents that require the submission of a Declaration Regarding Electronic Filing include petitions, amendments to schedules/statements, affidavits, verified complaints and plans if signed under oath. The Declaration Regarding Electronic Filing must be in the form of LBFs 5005-4A or 5005-4B, must be signed under oath and must have attached to it a copy of the Notice of Electronic Filing for that document, which includes the electronic document stamp. As part of the clerk's duty to maintain records, the clerk shall retain all Declarations Regarding Electronic Filing that are submitted to the Court.

LBF 5005-4A
(Eff. 12/1/09)

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

In re: _____, Bk. No. _____-_____-MWV or JMD
Debtor Chapter _____

Full Social Security No. of Debtor: _____-_____-_____
Full Social Security No. of Joint Debtor: _____-_____-_____

**DECLARATION REGARDING ELECTRONIC FILING FOR PETITIONS,
SCHEDULES, AND AMENDMENTS TO SCHEDULES**

PART 1 - Declaration of Petitioner:

I, _____, the undersigned debtor, corporate officer, partner or managing member, hereby declares under penalty of perjury that the information I have given my attorney and the information contained in the petition, statements and schedules, or amendments thereof that are to be electronically filed (the "petition and schedules"), consisting of ___ pages, is true and correct, to the best of my knowledge and belief. I understand that this DECLARATION REGARDING ELECTRONIC FILING is to be submitted to the clerk after the petition and schedules have been filed electronically but, in no event, no later than seven (7) days after the petition and schedules have been filed. I acknowledge receipt of a copy of the petition and schedules that are to be electronically filed.

[] [If petitioner is an individual] I am aware that I may proceed under Chapter 7, 11, 12, or 13 of Title 11 of the United States Code, and I understand the relief available under each such chapter. I request relief in accordance with the chapter specified in the petition. I declare under penalty of perjury that the foregoing Social Security number is true and correct.

[] [If petitioner is a corporation, partnership or limited liability entity] I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter specified in this petition.

I understand that failure to file the signed original of this DECLARATION is grounds for dismissal of my case pursuant to 11U.S.C. § 707(a)(3).

Date: _____
Authorized Corporate Officer/Partnership Member

Signed: _____
Debtor Joint Debtor (if joint case, both spouses must sign)

Part 2 - Declaration of Attorney:

I declare that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that the petition and schedules are not being presented for any improper purpose; that the claims, defenses, and other legal contentions therein are warranted and are not frivolous; that the allegations and other factual contentions have, or will have, evidentiary support; and that the denials of factual contentions are warranted. I further certify that the debtor signed this Declaration and authorized me to electronically file the petition and schedules, that I gave the debtor a copy of the petition and schedules that are to be electronically filed, and that the petition and schedules identified in the attached Notice of Electronic Filing from the CM/ECF system fully and accurately reflect the information given to me by

The debtor. I have complied with all other electronic filing requirements. I have informed the individual petitioner that [he and/or she] may proceed under Chapter 7, 11, 12 or 13 of Title 11 of the United States Code and have explained the relief available under each such chapter. This declaration is based upon all information of which I have knowledge.

Date: _____

Attorney Signature

Print Name

Address _____

Tel. No. _____

NOTE: You must attach the Notice of Electronic Filing as an exhibit.

(FILE ORIGINAL WITH COURT. DO NOT FILE ELECTRONICALLY.)

District of New Mexico

Electronic Filing Procedures

11 Signatures

...

11.2 Verified Signature of Person Other Than Attorney. Documents which require the verified signature of a person other than the electronically filing attorney may be electronically filed utilizing scanning technology. Documents which require the verified signature of the debtor include the petition, schedules, statement of affairs, statement of intent, non-filing spouse certification, reaffirmation agreement, an application to pay filing fee in installments, and amendments to the petition.

Fed. R. Bankr. P. 1008.

Please carefully review the various debtor signature forms for electronically filed petitions you will find on the Court's Web site (select "Forms," and then click on "Debtor's Signature Pages"). These forms are designed to be used upon the initiation of the case (or filing schedules after a skeleton petition has been filed), not for subsequent or unrelated documents, such as an amendment to the petition or an amended statement of intention. In these instances, you will need to craft your own signature page, use the one produced by your software, or prepare the Debtor's Unsworn Declaration Under Penalty of Perjury (following the form posted on the Court's Website).

Scanning may also be utilized for documents containing verified signatures of other persons, e.g., reaffirmation agreements and affidavits:

“. . .an electronically filed affidavit would have to be scanned in so that the required signatures would be visible on the “official” electronic document.”

Clark v. Ford Motor Credit Co. (In re Clark), Case No. 7-03-15342 M A, Adv. No. 03-1381 M, docket No. 38, United States Bankruptcy Court, District of New Mexico, August 10, 2004, at www.nmb.uscourts.gov.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re

Debtor(s). No. _____

SIGNATURE PAGE: DECLARATION BY DEBTOR
Schedules and Statement of Financial Affairs Filed After Petition

[] *[For individual debtor(s)]*

I declare under penalty of perjury that I have read the summary of *schedules* (and, if I am an individual debtor whose debts are primarily consumer debts, as defined in 11 U.S.C. section 101(8), the statistical summary of certain liabilities and related data), the schedules, [consisting of _____ sheets], and the answers contained in the statement of financial affairs and any attachments thereto, and that they are true and correct.

Signature of debtor Date Signature of Joint Debtor Date

[] *[Where debtor is not an individual]*

I declare under penalty of perjury that I have read the summary of schedules and the schedules, [consisting of _____ sheets], and the answers contained in the statement of financial affairs and any attachments thereto, and that they are true and correct to the best of my knowledge, information and belief.

Signature of authorized individual Printed name of authorized individual

Title of authorized individual Date

Eastern District of Wisconsin

LR 5005.1 Retention of Electronically Filed Documents.

- (a) Documents which must contain original signatures of the debtor(s) or other entities, including those which are: signed under penalty of perjury; require verification under Fed. R. Bankr. P. 1008; or contain an unsworn declaration as provided in 28 U.S.C. § 1746 must be maintained by the filer of the document for a period of five years after the closing of the case unless the Court orders a different period. On request of the Court or any party in interest, the filer must provide the original documents for review.
- (b) As an alternative to maintaining the above referenced documents for a period of five years, the filer may have the original document, including any original signature, scanned, digitized and electronically stored for five (5) years. Such document shall be deemed a counterpart intended by the person executing or issuing it to have the same effect as an original pursuant to Federal Rule of Evidence 1001(3) provided the person or persons executing or issuing the document shall have signed and filed in the case a Verification of Signature and Designation of Electronic Counterpart as Original as set forth in the Appendix to these Rules. On the request of the Court or any party in interest the filer must provide a copy of the electronic document.

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF WISCONSIN

In the Matter of:

Chapter

Debtor(s).

Case No.

VERIFICATION OF SIGNATURE AND DESIGNATION
OF ELECTRONIC COUNTERPART AS ORIGINAL

I (we), _____ and _____, the undersigned debtor(s), corporate officer, partner or member, hereby declare under penalty of perjury that the signature(s) below are the signature(s) of the debtor(s), corporate officer, partner or member who has signed or will sign any document in this case which is signed under penalty of perjury, requires verification under Fed. R. Bankr. P. 1008 or contains an unsworn declaration under 28 U.S.C. 1746. I (we) do further declare that any of the foregoing documents executed or issued by me (us) which are maintained by the filer thereof in an electronic format pursuant to Local Bankruptcy Rule 5005.1(b) are intended by me (us) to be a counterpart having the same effect as an original pursuant to Fed. R. Evidence 1001(3).

Signature: _____ Signature: _____

Print Name: _____ Print Name: _____
(Debtor or Corporate Officer, Partner, Member) (Joint Debtor)

Date: _____

Attorney Name
Street Address
Suite #
City, State, Zip
Phone No.
FAX No.
E-mail

Appendix C

Local District Court Procedures on Signatures of Non-Filing Users of CM/ECF and Retention of Signed Documents

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
First Circuit			
<u>Maine</u>			
<u>Civil Cases & Criminal Cases</u>			
<p>Local Civil Rule 10 Form of Pleadings, Motions and Other Papers</p> <p><i>See also D Maine Local Rules, Appendix IV Administrative Procedures Governing The Filing And Service By Electronic Means, § (h) Signature (same)</i></p>	<p>For a period of not less than two (2) years after the expiration of the time for filing a timely appeal</p>	<p>Attorney (filer)</p>	<p>No</p>
<hr/>			
<u>Massachusetts</u>			
<u>Civil Cases & Criminal Cases</u>			
<p><i>*Administrative Procedures for Electronic Case Filing in the United States District Court for the District of Massachusetts, § M. Signature & § Y. Retention (retention period applies to any document requiring an original signature).</i></p> <p><i>*Referenced in Local Rule 5.4(B)</i></p> <p><i>See also Electronic Case Filing CM/ECF User's Manual: Signatures; Affidavits of Service (same as above)</i></p>	<p>Until two (2) years after the expiration of the time for filing a timely appeal</p>	<p>Attorney (filer)</p>	<p>No</p>
<hr/>			
<u>New Hampshire</u>			
<u>Civil Cases & Criminal Cases</u>			
<p>Local Rules Appendix A Supplemental Rules For Electronic Case Filing, Rule 2.7</p> <p>Signatures on Electronically Filed Documents, (e) Retention of Documents</p>	<p>Until three (3) years after the date of filing or until the conclusion of all appeals in the case, whichever date is later</p>	<p>Attorney (filing user)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<u>Puerto Rico</u>			
<u>Civil & Criminal Cases</u>			
Standing Order No. 1, In the Matter of Electronic Case Filing, Misc. No. 03-149(HL) (11/24/03), § 8. Retention Requirements (p.7)	Until 5 years after all time periods for appeals expires	Attorney (filing user)	No
<u>Rhode Island</u>			
<u>Civil & Criminal Cases</u>			
Lr Gen 307 Document Retention Requirements	Until two years after a final decision has been rendered which disposes of all aspects of the case	Attorney (filing user)	No
Second Circuit			
<u>Connecticut</u>			
<u>Civil & Criminal Cases</u>			
<i>Electronic Filing Policies and Procedures</i> , §§ XI. Signatures & XV. Retention of Originals of Documents Requiring Scanning	For a period of five years following the expiration of all time periods for appeals or statutes of limitation	Attorney (filer)	No
<u>New York Eastern</u>			
<u>Civil Cases & Criminal Cases</u>			
<i>CM/ECF User's Guide, Introduction.</i>			
<i>Note: We were unable to locate a provision specifically addressing retention of non-attorney original signatures.</i>			
<u>New York Northern</u>			
<u>Civil Cases & Criminal Cases</u>			
<i>General Order #22 Administrative Procedures for Electronic Case Filing</i> , Rule 4.8 Document Retention; Rule 6.2 Non-Attorney signature	For a period of not less than sixty days after all dates for appellate review have expired	Attorney (filing user)	No

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>New York Southern</u> <u>Civil & Criminal Cases</u> <i>Electronic Case Filing Rules & Instructions, Part I.7 Retention Requirements</i></p>	<p>Until one year after all time periods for appeals expire, except that affidavits, declarations and proofs of service must be maintained in paper form by the Filing User until five years after all time periods for appeals expire</p>	<p>Attorney (filing user)</p>	<p>No</p>
<p><u>New York Western</u> <u>Civil & Criminal Cases</u> <i>*Administrative Procedures Guide, Rule 2.g.v.</i> <i>*Referenced in Local Rule 5.1(a)</i></p>	<p>For a period of five years following the expiration of all time periods for appeals</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p><u>Vermont</u> <u>Civil & Criminal Cases</u> <i>*Administrative Procedures For Electronic Case Filing (ECF), § (J)(5) Retention of Documents.</i> <i>*Referenced in Local Rule 5(b)</i></p>	<p>Until two (2) years after the expiration of the time for filing a timely appeal</p>	<p>Attorney (filing user)</p>	<p>No</p>
Third Circuit			
<p><u>Delaware</u> <u>Civil & Criminal Cases</u> <i>*Revised Administrative Procedures Governing Filing And Service By Electronic Means, § (H) Signature</i> <i>*Referenced in Civil Local Rule 5.1(a)</i></p>	<p>For two (2) years after the expiration of the time for filing a timely appeal</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>New Jersey</u> <u>Civil Cases & Criminal Cases</u> <i>Civ. Rule 5.2 Electronic Service And Filing Documents, Electronic Case Filing Policies And Procedures, 13. Retention Requirements.</i></p>	<p>Until one (1) year after all periods for appeals expire</p>	<p>Attorney (ECF filing user) and/or the firm representing party on whose behalf the document was filed</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Pennsylvania-Eastern</u> <u>Civil & Criminal Cases</u> LR 5.1.2(11) Retention Requirements</p>	<p>Until three (3) years after the time period for appeal expires</p>	<p>Attorney (ECF filing user)</p>	<p>No</p>
<p><u>Pennsylvania-Middle</u> <u>Civil Cases</u> *ECF User Manual, Retention Requirements (p. 12) See also *Standing Order 04-6 Electronic Case Filing Policies and Procedures, 10. Retention Requirements (same) *Referenced in LR 5.6</p>	<p>Until one year after all periods for appeals expire</p>	<p>Counsel and/or the firm representing the party on whose behalf the document was filed</p>	<p>No</p>
<p><u>Criminal Cases</u> ECF User Manual, Retention Requirements page 12 Standing Order 04-6 Electronic Case Filing Policies and Procedures, 10. Retention Requirements</p>	<p>Until one year after all periods for appeals expire</p>	<p>United States Attorney</p>	<p>No</p>
<p><u>Pennsylvania-Western</u> <u>Civil Cases</u> Standing Order 09-2 adopting changes to ECF Policies and Procedures, Case 2:05-mc-186 Electronic Case Filing Policies and Procedures, 10. Retention Requirements (same) ECF User Manual, 13. Retention Requirements (same)</p>	<p>Until one year after all periods for appeals expire</p>	<p>Counsel and/or the firm representing the party on whose behalf the document was filed</p>	<p>No</p>
<p><u>Criminal Cases</u> Standing Order 09-2 adopting changes to ECF Policies and Procedures, Case 2:05-mc-186 Electronic Case Filing Policies and Procedures, 10. Retention Requirements ECF User Manual, 13. Retention Requirements</p>	<p>Until one year after all periods for appeals expire</p>	<p>United States Attorney (includes all papers with defendant's original signature)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Virgin Islands</u> <u>Civil & Criminal Cases</u> Rule 5.4 Electronic Filing, (g) Retention Requirements</p>	<p>Until five years after all time periods for appeals expire</p>	<p>Filing User</p>	<p>No</p>
Fourth Circuit			
<p><u>Maryland</u> <u>Civil Cases</u> <i>Electronic Filing Requirements and Procedures for Civil Cases</i>, F. Signatures</p>	<p>Until all appeals have been exhausted or the time for seeking appellate review has expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Criminal Cases</u> <i>Electronic Filing Requirements and Procedures for Criminal Cases</i>, III.E. Signatures</p>	<p>Until all appeals have been exhausted or the time for seeking appellate review has expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>North Carolina Eastern</u> <u>Civil and Criminal Cases</u> <i>*Electronic Case Filing User’s Manual, The Mechanics of Electronic Filing, Signatures.</i> <i>*Referenced in Civil Local Rule 5.1(a)(1) & Criminal Local Rule 49.1</i></p>	<p>Until 2 years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court of an order terminating the action on appeal</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>North Carolina Middle</u> <u>Civil Cases & Criminal Cases</u> Civil LR 5.3 Electronic Filing of Documents, (e) Signatures <i>See also Electronic Case Filing Administrative Policies And Procedures Manual, § I. Signatures (same)</i></p>	<p>Until two (2) years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court of an order terminating the action on appeal</p>	<p>Attorney (filer)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>North Carolina Western</u> <u>Civil & Criminal Cases</u></p> <p><i>*Administrative Procedures Governing Filing And Service By Electronic Means, § II. Electronic Filing And Service of Documents, C. Signatures, 1. Non-Attorney Signature, Generally</i></p> <p><i>*Referenced in LCvR 5.2.1(A)</i></p>	<p>For two years after the expiration of the time for filing a timely appeal of a final judgment or decree, or after receipt by the Clerk of Court of an order terminating the action on appeal</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p><u>South Carolina</u> <u>Civil Cases</u></p> <p><i>*Electronic Case Filing Policies and Procedures Manual, 9. Document Retention Requirements, 10.5 Signatures of Persons Other Than Filing Users</i></p> <p><i>*Referenced in L. Civil Rule 5.04</i></p>	<p>For six (6) years after the time for all appeals has expired or the judgment otherwise becomes final</p>	<p>Attorney (filing user) and/or the firm representing the party on whose behalf the document was filed</p>	<p>No</p>
<p><u>South Carolina</u> <u>Criminal Cases</u></p> <p><i>Electronic Case Filing Policies and Procedures Manual, 9. Document Retention Requirements, 10.5 Signatures of Persons Other Than Filing Users</i></p>	<p>For six (6) years after the time for all appeals has expired or the judgment otherwise becomes final</p>	<p>The Office of the U.S. Attorney or the U.S. Department of Justice</p>	<p>No</p>
<p><u>Virginia Eastern</u> <u>Civil & Criminal Cases</u></p> <p><i>EDVA Electronic Case Filing Policies and Procedures Manual, Chapter 3 Signatures</i></p>	<p>For the duration of the case, including any period of appeal</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Virginia Western</u></p> <p><u>Civil Cases</u></p> <p><u>Criminal Cases</u></p> <p><i>Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means, Q. Retention</i></p>	<p>None</p> <p>Until two years following the expiration of all appeal periods</p>	<p>N/A</p> <p>U.S. Attorney's Office</p>	<p>No</p> <p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>West Virginia Northern Civil & Criminal Cases</u></p> <p><i>An Attorney's Guide To The Court's Administrative Procedures For Electronic Case Filing</i>, 15.3. Non-Attorney Signature/Multiple Signatures</p>	<p>For a period of not less than sixty days after all dates for appellate review have expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>West Virginia Southern Civil & Criminal Cases</u></p> <p><i>Administrative Procedures For Electronic Case Filing</i>, 14.6 Document Retention & 15.3 Non-Attorney Signatures</p>	<p>For a period of not less than two (2) years after all dates for appellate review have expired</p>	<p>Attorney (filing user)</p>	<p>No</p>
Fifth Circuit			
<p><u>Louisiana Eastern Civil & Criminal Cases</u></p> <p><i>Administrative Procedures For Electronic Case Filing</i>, Rule 7 Retention Requirements, Rule 8 Signatures</p>	<p>Until one year after all time periods for appeals expire</p>	<p>Attorney (filing user)</p>	<p>No</p>
<p><u>Louisiana Middle Civil & Criminal Cases</u></p> <p><i>*Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Civil and Criminal Cases</i>, § I. The Electronic Filing System - General Requirements, F. Signatures, 2. Non-Attorney Signatures, Generally.</p> <p>*Referenced in LR 5.5</p>	<p>For 1 year from the expiration of all time periods for appeals</p>	<p>Attorney (filing user)</p>	<p>No</p>
<p><u>Louisiana Western Civil Cases & Criminal Cases</u></p> <p>LR 5.7.07 Retention Requirements</p>	<p>For 1 year from the expiration of all time periods for appeals</p>	<p>Attorney (filing user)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Mississippi Northern Civil & Criminal Cases</u></p> <p><i>*Administrative Procedures for Electronic Case Filing, Electronic Means for Filing, Signing and Verification of Pleadings and Papers, § 3.D. Signatures</i></p> <p><i>*Referenced in Local Civil Rule 5(c)</i></p>	<p>Until all time periods for the appeal have expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Mississippi Southern Civil & Criminal Cases</u></p> <p><i>*Administrative Procedures for Electronic Case Filing, Electronic Means for Filing, Signing and Verification of Pleadings and Papers, § 3.D. Signatures</i></p> <p><i>*Referenced in Local Civil Rule 5(c)</i></p>	<p>Until all time periods for the appeal have expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Texas Eastern Civil & Criminal Cases</u></p> <p><i>Electronic Case Files (CM/ECF) User's Manual, Signatures (page 13)</i></p>	<p>Unspecified</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Texas Northern Civil Cases</u></p> <p>Civil LR 11.1 Electronic Signature. (d) Requirements for Another Person's Electronic Signature</p>	<p>For one year after final disposition of case</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Criminal Cases</u></p> <p>Criminal LR 49.5 Electronic Signature. (d) Requirements for Another Person's Electronic Signature</p>	<p>Same</p>	<p>Same</p>	<p>No</p>
<p><u>Texas Southern Civil & Criminal Cases</u></p> <p><i>*Administrative Procedures for ECF - Civil/Criminal, 8. Signatures and Retention Requirements, C. Documents containing multiple persons' signatures.</i></p> <p><i>*Referenced in LR5.1</i></p>	<p>Until expiration of three years after the time for all appeals in the case</p>	<p>Attorney (filing user)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Texas Western</u> <u>Civil & Criminal Cases</u></p> <p><i>*Administrative Policies and Procedures for Electronic Filing in Civil and Criminal Cases, § 14 Signatures and Retention Requirements</i></p> <p><i>*Referenced in L. Civ. Rule CV-5(a)(1)</i></p>	For one year after final resolution of the action, including any appeal	Attorney (filing user)	No
Sixth Circuit			
<p><u>Kentucky Eastern and Western</u> <u>Civil & Criminal Cases</u></p> <p><i>*Amended Electronic Case Filing Administrative Policies and Procedures, 10. Retention Requirements</i></p> <p><i>See also *ECF User's Manual, Signatures & Retention Requirements (p. 11, 13) (same)</i></p> <p><i>*Referenced in Joint General Order Number 11- 02: In Re: Electronic Case Filing Administrative Policies and Procedures as Amended July, 2011</i></p>	One year after all periods for appeals expire	By counsel and/or the firm representing the party on whose behalf the document was filed	
<p><u>Michigan Eastern</u> <u>Civil & Criminal Cases</u></p> <p><i>*Electronic Filing Policies and Procedures, R17 Retention Requirements</i></p> <p><i>*Referenced in Civil LR 5.1.1(a) (Appendix ECF to Civil Local Rules)</i></p>	Unspecified	The Court encourages filing users to retain the originals of papers with intrinsic value	No
<p><u>Michigan Western</u> <u>Civil Cases</u></p> <p>Local Civil Rule 5.7 Filing and service by electronic means, (e) Signature, (viii) Evidence of Original Signature</p>	Until one year after the final resolution of the action (including appeal, if any)	Attorney (filer)	No
<p><u>Criminal Cases</u></p> <p>Local Criminal Rule 49.10 Filing and service by electronic means, (e) Signature, (viii) Evidence of Original Signature</p>	Same	Same	No

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Ohio Northern</u> <u>Civil & Criminal Cases</u> <i>*Electronic Filing Policies and Procedures Manual</i>, 10. Filing Documents Electronically, 17. Retention of Originals of Documents Requiring Scanning (July 26, 2011) *Referenced in Civil Local Rule 5.1(b).</p>	<p>For a period of one year following the expiration of all time periods for direct appeals.</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p><u>Ohio Southern</u> <u>Civil Cases</u> <i>*CM/ECF Attorneys' Manual</i>, Signatures; Affidavits of Service (p.14) *Referenced in Local Rule 5.1(c).</p>	<p>After the case ends, at least until the time for all appeals have expired</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p><u>Criminal Cases</u> Local Criminal Rule 49.1 Serving and Filing Papers</p>	<p>For five years or for the period within which the Clerk would maintain original material under S.D. Ohio Civ. R. 79.2 (six (6) months after final termination of the action), whichever period is longer.</p>	<p>Attorney (filing user)</p>	<p>No</p>
<p><u>Tennessee Eastern</u> <u>Civil & Criminal Cases</u> <i>*Electronic Case Filing Rules and Procedures</i>, 7. Retention Requirements *Referenced in LR 5.2(e).</p>	<p>One year after all time periods for all appeals expire</p>	<p>Counsel representing the party on whose behalf the document was filed</p>	<p>No</p>
<p><u>Tennessee Middle</u> <u>Civil Cases & Criminal Cases</u> <i>*Administrative Order No. 167, Administrative Practices and Procedures for Electronic Case Filing (ECF)</i>, 15. Retention Requirements *Referenced in LR5.03(a)</p>	<p>For one year after all time periods for all appeals expire</p>	<p>Filing user (counsel representing the party on whose behalf the document was filed)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Tennessee Western</u> <u>Civil Cases</u> Local Rules, Appendix A Electronic Case Filing Policies and Procedures Manual, 9. Document Retention Requirements, 10.5 Signatures of Persons Other Than E-Filers</p>	<p>For no less than five (5) years after the time for all appeals has expired or the judgment otherwise becomes final</p>	<p>Attorney (E-Filer) and/or the firm representing the party on whose behalf the document was filed</p>	<p>No</p>
<p><u>Criminal Cases</u> Same</p>	<p>Same</p>	<p>By the Office of the United States Attorney or the United States Department of Justice</p>	<p>No</p>
Seventh Circuit			
<p><u>Illinois Central</u> <u>Civil Cases</u> Civil Rule 11.4 Electronic Signatures, (B) Signatures by Non-Electronic Filers</p>	<p>Until one year after the date that the judgment has become final by the conclusion of direct review or the expiration of the time for seeking such review has passed</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p><u>Criminal Cases</u> Criminal Rule 49.10 Electronic Signatures, (B) Signatures by Non-Electronic Filers.</p>	<p>Same</p>	<p>Same</p>	<p>No</p>
<p><u>Illinois Northern</u> <u>Civil & Criminal Cases</u> <i>*General Order 2011-24 on Electronic Case Filing. Part VIII. Retention Requirements for Documents with Signatures of Persons Other Than E-Filers.</i></p>	<p>4 years after all time periods for appeals expire</p>	<p>Attorney (E-filer)</p>	<p>No</p>
<p><i>*Referenced in LR5.2 (a)</i></p>			

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Illinois Southern</u> <u>Civil & Criminal Cases</u> <i>Electronic Filing Rules</i>, Rule 7 Retention Requirements <i>See also CM/ECF User's Manual</i>, 2.1 Retention and Signature Requirements adds exception</p>	<p>For 5 years after final resolution of the action, including final disposition of all appeals</p>	<p>Attorney (filer)²¹</p>	
<p><u>Indiana Northern</u> <u>Civil Cases</u> <i>*CM/ECF Civil And Criminal User Manual, Electronic Means for Filing, Signing and Verification of Documents</i>, II. Electronic Filing and Service Of Documents, E. Signatures <i>*Referenced in N.D. Ind. L.R. 5-1(a).</i></p>	<p>Unspecified</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Criminal Cases</u> <i>CM/ECF Civil and Criminal User Manual, Electronic Means for Filing, Signing and Verification of Documents</i>, II. Electronic Filing and Service of Documents, E. Signatures</p>	<p>Unspecified</p>	<p>Clerk's Office</p>	<p>No</p>
<p><u>Indiana Southern</u> <u>Civil Cases & Criminal Cases</u> Local Rule 5-9 - Retention of Papers in Cases Filed Electronically</p>	<p>For two years after all deadlines for appeals in the case expire</p>	<p>Attorney (Filing User)</p>	<p>No</p>

21. In the following exceptional instances, a document bearing an original signature(s) is scanned and electronically filed, and the original document is mailed to the Clerk of Court for retention: (A) Any affidavit or document containing an oath or a declaration, certification, verification, or statement under the penalty of perjury by any person other than an attorney of record in the case; (B) Any document setting forth any stipulation by any person other than an attorney of record in the case; (C) Any document containing the signature of a defendant; and (D) Certified copies of judgments or orders of other courts.

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Wisconsin Eastern Civil Cases</u></p> <p><i>Electronic Case Filing Policies And Procedures Manual, II.C.2.a. Signatures</i></p>	Until one year has passed after the time period for appeal expires	Attorney (filer)	No
<p><u>Criminal Cases</u></p> <p><i>Electronic Case Filing Policies And Procedures Manual, II.C.2.b. Signatures</i></p>	Until one year has passed after the time period for appeal expires* ²²	Attorney (filer)*	No
<p><u>Wisconsin Western Civil Cases & Criminal Cases</u></p> <p><i>*Administrative Procedures For Electronic Case Filing, IV. General Guidance, E. Signatures</i></p> <p>*Referenced in LR 5.1</p>	For two (2) years after final resolution of the action, including final disposition of all appeals	Attorney (Filing User)	No
Eighth Circuit			
<p><u>Arkansas Eastern & Western Civil Cases</u></p>	None	N/A	No
<p><u>Criminal Cases</u></p> <p><i>*Administrative Policies and Procedures Manual For Criminal Filing, IV.D. Documents Containing Certain Original Signatures</i></p> <p>*Referenced in Local Rule 5.1</p>	Unspecified	Clerk's office ²³	

22. *Exception—If the original document contains the signature of a criminal defendant, a third-party custodian, a U.S. Marshal, an officer from the U.S. Probation Office, or some other federal officer or agent, clerk's office disposes of document after it is scanned and uploaded to ECF.

23. Documents in criminal cases containing the signature(s) of a defendant, a grand jury foreperson, a surety, or a third-party custodian shall be filed conventionally. The clerk's office will scan these original documents into an electronic file and upload them into the System but will maintain the original in a paper file.

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Iowa Northern & Southern Civil Cases & Criminal Cases</u></p> <p>LR 5.2 Electronic Filing and Electronic Access To Case Files, i. Original Documents Retained by Lawyer or Party. <i>*Note there is a slight discrepancy in the retention period as stated in LR 5.2 and in the Manual.</i></p> <p><i>Electronic Case Filing Procedures Manual</i>, XIV. Retention of Documents, A. Original Documents Retained By Lawyer or Party</p>	<p>During the pendency of the case and for 5 years after the filing of the document</p> <p>During the pendency of the case</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Minnesota Civil Cases</u></p> <p><i>Electronic Case Filing Procedures Guide, Civil Cases</i> § II. Electronic Filing and Service Of Documents, C. Signatures, 2. Non-Attorney/Third Party Signatures, Generally.</p> <p><i>(Note: These documents should be retained in accordance with the retention rules required by the Eighth Circuit and Federal Circuit).</i></p>	<p>Until the case is terminated with finality with no right of appeal or until such later date as the court prescribes*</p> <p>*Source: Federal Circuit Court of Appeals, <i>Administrative Order Regarding Electronic Case Filing</i>, ECF-4. CM/ECF Retention Requirements</p>	<p>Filer (certifying attorney's office)</p>	<p>No</p>
<p><u>Criminal Cases</u></p> <p><i>Electronic Case Filing Procedures Guide, Criminal Cases</i>, § II. Electronic Filing and Service Of Documents, C. Signatures, 2. Non-Attorney/Third Party Signatures, Generally</p>	<p>Until the case is terminated with finality with no right of appeal or until such later date as the court prescribes*</p>	<p>Filer (certifying attorney's office)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Missouri Eastern</u> <u>Civil & Criminal Cases</u></p> <p>Local Rule 11 - 2.11 Signatures on Electronic Filings</p> <p><i>See also Administrative Procedures for Case Management/Electronic Case Filing (CM/ECF), § II.H. Signatures and Appendix D (Sample Form—Verification of Signed Original Document)</i></p>	<p>During the pendency of the litigation including all possible appeals</p>	<p>Attorney (filer)</p>	<p>Yes; where an electronic document is signed by one other than the filing attorney, the attorney must file a verification attesting to the existence of the signed original document</p>
<p><u>Missouri Western</u> <u>Civil Cases</u></p> <p><i>*CM/ECF Civil And Criminal Administrative Procedures Manual, Signatures: Affidavits of Service, 2. Civil Cases (p.6)</i></p> <p><i>*Referenced in Local Civil Rule 5.1</i></p>	<p>For two (2) years after final resolution of the action, including final disposition of all appeals</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Criminal Cases</u></p> <p><i>CM/ECF Civil And Criminal Administrative Procedures Manual, Signatures: Affidavits of Service, 2. Criminal Cases (p.6)</i></p>	<p>Unspecified</p>	<p>Clerk's Office²⁴</p>	<p>No</p>

24 *Note:* Certain documents that must contain original signatures other than those of a participating attorney or which require either verification or an unsworn declaration under any rule or statute, shall be filed in paper and maintained in the clerk's office.

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p>Nebraska <u>Civil Cases</u> Civil Local Rule 11.1 Signing of Documents. (2) Nonattorney Signature. (A) Maintenance of Original Document.</p>	<p>Until all time periods for appeal expire</p>	<p>Attorney (filer)</p>	<p>None</p>
<p><u>Criminal Cases</u> Criminal Local Rule 49.2 Form of Documents, (c) Signing Documents, (1) Electronic Filing, (B) Defendant or Non-Attorney Signature, (i) Maintenance of original document.</p>	<p>Same</p>	<p>Same</p>	<p>No</p>
<p>North Dakota <u>Civil Cases</u> <i>*Administrative Policy Governing Electronic Filing and Service, Section X. Signatures (for multiple signatures and affidavits in civil cases)</i> <i>*Referenced in Civil Rule 5.1(A)</i></p>	<p>Until the entry of a final nonappealable judgment, or for two years, whichever is later</p>	<p>Attorney (filing user)</p>	<p>No</p>
<p><u>Criminal Cases</u> <i>*Administrative Policy Governing Electronic Filing and Service, Section X. Signatures, (F) Defendants in Criminal Cases (for court forms containing a “/s/,” “/s” or “s/” signature block, or a digital image of the signature of a probationer)</i> <i>*Referenced in Criminal Rule 49.1(A)</i></p>	<p>Unspecified</p>	<p>United States probation and pretrial services office</p>	<p>No</p>
<p>South Dakota <u>Civil & Criminal Cases</u> <i>Case Management Electronic Case Filing (CM/ECF) User Manual and Administrative Procedures, Retention Requirements (p.16)</i> Note: A document containing the signature of a defendant in a criminal case must be filed in paper form with an original written signature. (Signatures p. 13)</p>	<p>Until five years after all time periods for appeals expire unless the Court directs that it be retained for a different period.</p>	<p>Filer (registered attorney)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
Ninth Circuit			
<p><u>Alaska</u> <u>Civil Cases & Criminal Cases</u> <i>*Electronic Case Filing with CM/ECF, Attorney User’s Manual (page 5 Signatures)</i> <i>*Referenced in Rule 5.3(b)(1)</i></p>	Unspecified	Attorney (filer)	No
<p><u>Arizona</u> <u>Civil Cases & Criminal Cases</u> <i>*Electronic Case Filing Administrative Policies and Procedures Manual, § II.C.2 (Non-registered signatories), § II.C.4 (criminal defendants)</i> <i>* Referenced in LRCiv 5.5(a)</i></p>	For the duration of the case, including any period of appeal	Attorney (filing party)	No
<p><u>California Central</u> <u>Civil Cases & Criminal Cases</u> <i>L.R. 5-4.3.4 Signatures. (b) Maintenance of Original Hand-signed Documents.</i></p>	Until one year after final resolution of the action (including the appeal, if any)	Attorney (filer)	No
<p><u>California Eastern</u> <u>Civil Cases & Criminal Cases</u> Local Rule 131(f) Non-Attorney’s Electronic Signature. Note: Local Rule 131(h) Electronic Signatures on Certain Documents in Criminal Actions. Unless the procedure in L.R. 131(f) is followed, the Clerk will scan certain documents in criminal actions that require the signature of a non-attorney, upload them to the CM/ECF system, and except as otherwise provided by administrative procedures, discard the paper documents. The electronically-filed document as it is maintained on the Court’s servers shall constitute the official version of that record.</p>	For one year after the exhaustion of all appeals	Attorney (filer)	No

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>California Northern</u> <u>Civil Cases & Criminal Cases</u> Civil Local Rule 5-1(i) Signatures</p>	<p>Until one year after the final resolution of the action (including appeal, if any).</p> <p>Note: Except for documents signed by a criminal defendant in a criminal case, filer may attach a scanned image of the signature page of the document being electronically filed in lieu of maintaining the paper</p>	<p>Filer (attorney)</p>	<p>No</p>
<p><u>California Southern</u> <u>Civil Cases & Criminal Cases</u> <i>*CM/ECF Administrative Policies and Procedures Manual, § 2: Electronic Filing and Service of Documents, f. Signatures, 2. Non-Registered Signatories & 3. Criminal Defendants</i> *Referenced in Civil Rule 5.4(f)</p>	<p>For a period of five years from the date the document is signed, or for one year after the expiration of all time periods for appeal, whichever period is greater</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p><u>Guam</u> <u>Civil Cases & Criminal Cases</u> <i>Administrative Procedures For The Electronic Filing, Signing, Verifying, And Serving Of Civil And Criminal Documents, § III. Signatures, C. Retention Requirements</i></p>	<p>Until two (2) years after all time periods for appeals expire</p>	<p>Attorney (ECF User)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
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<p><u>Hawaii</u> <u>Civil Cases & Criminal Cases</u></p>	<p>Until thirty-five (35) days (five weeks) after expiration of any appeal period.</p>	<p>Attorney (ECF User)</p>	<p>No</p>
<p>LR100.5.4. Retention of Documents with Third Party Signatures. (December 2009)</p>			
<p>See also Civil Local Rule 10.2(e) Signatures on Declarations and Affidavits (party and/or attorney must maintain the declaration or affidavit with the original signature).</p>	<p>Until 30 days after expiration of any appeal period.</p>		
<p>*Note: Local Rule contradicts previously enacted Procedural Rule 5.4: CM/ECF Procedural Order February 2006, Rule 5.4 Retention of Documents with Third Party Signatures.</p>			
<hr/>			
<p><u>Idaho</u> <u>Civil Cases & Criminal Cases</u></p>	<p>For a period of not less than the maximum allowed time to complete any appellate process, or the time the case of which the document is a part, is closed, whichever is later</p>	<p>Attorney (filing party)</p>	<p>No</p>
<p>Civil Rule 5.1 Electronic Case Filing, (e) Retention of Conventionally Signed Documents.</p>			
<p><i>See also for slightly different language in retention period—</i>Electronic Case Filing Procedures, 19. Retention of Conventionally Signed Documents by Parties</p>	<p>For a period of not less than the maximum allowed time to complete any appellate process, or the time the case or adversary proceeding of which the document is a part, is closed, whichever is later</p>	<p>Attorney (filing party)</p>	
<hr/>			
<p><u>Montana</u></p>			
<p>*Unable to locate a local rule(s), standing order or procedural rule that addresses signatures of non-filing users</p>			
<hr/>			

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Nevada</u> <u>Civil & Criminal Cases</u> <i>Special Order #109 In re Authorization for Conversion to Case Management/Electronic Case Filing (CM/ECF), Electronic Filing Procedures, V. Signatures, C. Non-Filing User Signature & VIII. Retention Requirements</i></p>	<p>For the duration of the case and any subsequent appeal</p>	<p>Attorney (Filing User)</p>	<p>No</p>
<p><u>Northern Mariana Islands</u> <u>Civil Cases</u> <i>*Appendix A Administrative Procedures for Electronic Filing and Electronic Service, 10. Document Retention</i> <i>*Referenced in LR 5.1a - Electronic Filing</i></p>	<p>Until the expiration of the time for filing a timely appeal, and until 30 days after all appeals have been concluded</p>	<p>Attorney (Filing User)</p>	<p>No</p>
<p><u>Criminal Cases</u> Same</p>	<p>Until the expiration of the time for filing a timely appeal, and until 30 days after all appeals have been concluded, and in criminal matters until the length of the defendant's criminal sentence (if any) has elapsed</p>	<p>Attorney (Filing User)</p>	<p>No</p>
<p><u>Oregon</u> <u>Civil Cases & Criminal Cases</u> Civil LR 100-11 Retention Requirements <i>See also CM/ECF User Manual, § 4 (same as local rule)</i></p>	<p>Until the later of the final disposition of the case, including appeal or expiration of the time for appeal; or, the expiration of any relevant statute of limitations</p>	<p>Attorney (Registered User)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Washington Eastern Civil Cases</u> <i>Administrative Procedures for Electronic Case Filing (Civil Cases)</i> § II.C.4. Retention of Original Documents (original signatures) (p.14)</p>	Until two years after all time periods for appeals expire	Attorney (filer)	No
<p><u>Criminal Cases</u> <i>Administrative Procedures for Electronic Case Filing (Civil Cases)</i> § II.C.4. Retention of Original Documents (original signatures) (p.13)</p>	Same	Same	No
<p><u>Washington Western Civil & Criminal Cases</u> <i>Electronic Filing Procedures for Civil and Criminal Cases</i>, § III. Filing Documents Electronically, L. Signatures and Attorney Appearances (p.9)</p>	For the duration of the case, including any period of appeal	Attorney (filing party)	No
Tenth Circuit			
<p><u>Colorado Civil Cases</u> <i>Electronic Case Filing Procedures (Civil Cases)</i>, Rule 1.3. D. Filer Required to Maintain Certain Documents.</p>	Until two years after all time periods for appeal expire and all appeals are final	Attorney (filer)	No
<p><u>Criminal Cases</u> <i>Electronic Case Filing Procedures (Criminal Cases)</i>, Rule 1.3. D. Filer Required to Maintain Certain Documents.</p>	Until two years after all time periods for appeal have expired, all appeals are final, or the completion of the sentences of all defendants, whichever is later	Attorney (filer)	No
<p><u>Kansas Civil & Criminal Cases</u> Civil Local Rule 5.4.7 Retention Requirements Criminal Local Rule 49.7 Retention Requirements (same)</p>	Until 6 years after all time periods for appeals expire	Attorney (filing user)	No

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>New Mexico</u> <u>Civil & Criminal Cases</u> <i>CM/ECF Administrative Procedures Manual</i>, Rule 6(c) Retention of Verified Documents.</p>	<p>For not less than (a) one year after the maximum allowed time to complete appellate proceedings, or (b) one year after the case is closed, whichever is later</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Oklahoma Eastern</u> <u>Civil & Criminal Cases</u> <i>*CM/ECF Administrative Guide of Policies & Procedures</i>, § III.D.3. Non-User Signature <i>*Referenced in LCvR 5.1</i></p>	<p>Until all appeals have been exhausted or the time for seeking appellate review or any other post-conviction relief has expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Oklahoma Northern</u> <u>Civil Cases & Criminal Cases</u> <i>*CM/ECF Administrative Guide of Policies & Procedures</i>, XII.C. Non-User Signature. <i>*Referenced in LCvR 5.1 & LCrR49.3 (same)</i></p>	<p>Until all appeals have been exhausted or the time for seeking appellate review has expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Oklahoma Western</u> <u>Civil Cases & Criminal Cases</u> <i>*ECF Policies & Procedures Manual</i>, § II.C.3. Non-Attorney Signature. (August 4, 2009) <i>*Referenced in LCvR 5.1</i></p>	<p>Until all appeals have been exhausted or the time for seeking appellate review has expired</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Utah</u> <u>Civil Cases</u> <i>*District Of Utah CM/ECF and E-filing Administrative Procedures Manual</i>, § II.A.3. Non-Attorney Signatures. <i>*Referenced in DUCivR 5-1(a)</i></p>	<p>Until all appeals have been exhausted or the time for seeking appellate review has expired</p>	<p>Attorney (filer)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Utah</u> <u>Criminal Cases</u> <i>District of Utah CM/ECF and E-filing Administrative Procedures Manual, § II.A.4. Signatures in Criminal Cases</i></p>	Unspecified	Clerk	No
<p><u>Wyoming</u> <u>Civil & Criminal Cases</u> <i>*CM/ECF Administrative Procedures Manual, § II.K. Official Files and Records, iii. Filer Required to Maintain Certain Documents (p. 9)</i></p>	Until two years after all time periods for appeal expire and all appeals are final	Attorney (filer)	No
Eleventh Circuit			
<p><u>Alabama Middle</u> <u>Civil Cases</u> <i>*Civil Administrative Procedures For Filing, Signing, and Verifying Pleadings and Documents in the District Court Under the Case Management/Electronic Case Files (CM/ECF) System (Rule II.C.2)</i> <i>*Referenced in M.D. Ala. LR 5.3(b)</i></p>	Two (2) years after final resolution of the action, including final disposition of all appeals	Attorney (filer)	No
<p><u>Criminal Cases</u> <i>*Criminal Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents in the District Court Under the Case Management/Electronic Case Files (CM/ECF) System (Rule II.C.2)</i> <i>*Referenced in M.D. Ala. LR 5.3(b)</i></p>	Unspecified time period	Clerk of court	No

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Alabama Northern Civil Cases</u></p> <p><i>*Civil Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents in the District Court Under the Case Management/Electronic Case Files (CM/ECF) System (Rule II.C.2)</i></p> <p>*Referenced in LR 5.3</p>	<p>One (1) year after exhaustion of time to appeal final resolution of the action, or issuance of mandate from the Court of Appeals</p>	<p>Attorney (filer)</p>	<p>No, but electronic filing must include a certificate that filer holds the original signature document.</p>
<p><u>Alabama Northern Criminal Cases</u></p> <p><i>*Criminal Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents in the District Court Under the Case Management/Electronic Case Files (CM/ECF) System (Rule II.C.2)</i></p> <p>*Referenced in LR 5.3</p>	<p>At least one (1) year following the expiration of all time periods for appeals, or resolution of appeals, whichever is later</p>	<p>Attorney (filer)</p>	<p>Same as civil</p>
<p><u>Alabama Southern Civil & Criminal Cases</u></p> <p><i>Administrative Procedure for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means (Rule II.C.2)</i></p>	<p>Two (2) years after final resolution of the action, including final disposition of all appeals</p>	<p>Attorney (filer)</p>	<p>No</p>
<p><u>Florida Middle Civil Cases & Criminal Cases</u></p> <p><i>Attorney's User Manual Electronic Case Files CM/ECF</i></p>	<p>Unspecified</p>	<p>Attorney (filer)</p>	<p>No</p>

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Florida Northern</u>²⁵ <u>Civil & Criminal Cases</u></p> <p>*<i>CM/ECF Attorney's User Guide</i> (Chapter 9, Documents Requiring Original Signatures)</p> <p>*Note slight discrepancy with Local Rule 5.1(A)(9)</p>	For a period of two years or until the appeal time has expired, whichever is greater	Attorney (filer)	No
<p><u>Florida Southern</u> <u>Civil & Criminal Cases</u></p> <p><i>CM/ECF Administrative Procedures</i>, § 3, J(2) Documents Requiring Original Signatures</p>	For a period of one year after final resolution of the action, including final disposition of all appeals	Attorney (filing user)	No
<p><u>Georgia Middle</u> <u>Civil & Criminal Cases</u></p> <p>*<i>CM/ECF Administrative Procedures for Filing, Signing, and Verifying Documents By Electronic Means</i>, Electronic Signatures (p. 8-9)</p> <p>*Referenced in Local Rule 5.0(a)</p>	For two (2) years after the expiration of the time for filing a timely appeal	Attorney (filer)	No
<p><u>Georgia Northern</u> <u>Civil Cases & Criminal Cases</u></p> <p>*<i>Standing Order In Re: Electronic Case Filing Standing Order No. 04-01 And Administrative Procedures (App. H-4, #16)</i></p> <p>*Referenced in LR 5.1.A(1).</p>	For a period ending two (2) years after expiration of the time for filing a timely appeal	Attorney (filer)	No

25. **Local Rule 5.1(A)(9)** electronic filing of a document which contains a statement, declaration, verification, or certificate which is under oath or under penalty of perjury, has the same effect as a paper document with an original signature. By filing such a document, the Filing User certifies that the original signed paper document, signed under oath or penalty of perjury, is in the possession of the Filing User. The Filing User shall make the original document available for inspection and copying upon request by a party or by the Court, and shall retain the original document for two years after the termination of the case.

District Court/Civil and Criminal Local Rule or Procedure	Retention Period for Wet Signatures	Who Retains?	Is Declaration Filed?
<p><u>Georgia Southern</u> <u>Civil & Criminal Cases</u></p> <p><i>*Administrative Procedures For Filing, Signing, And Verifying Pleadings And Papers By Electronic Means, § II.A.1(f)(2)</i></p> <p>*Referenced in LR 5.5</p>	<p>For at least five (5) years after the conclusion of an appeal or the expiration of the time for filing a timely appeal</p>	<p>Attorney (filer)</p>	<p>No</p>
DC Circuit			
<p><u>District of Columbia</u> <u>Civil & Criminal Cases</u></p> <p><i>Electronic Case Filing User's Manual, Signatures (p.15)</i></p>	<p>Unspecified</p>	<p>Attorney (filer)</p>	<p>No</p>

Appendix D

Memorandum from Lisa Tracy, Esq., Executive Office of U.S. Trustees

MEMORANDUM

To: Dr. Molly Johnson, Senior Research Associate, Federal Judicial Center

Date: December 10, 2012

RE: Request for Input Regarding Use of Electronic Signatures in Bankruptcy Filings by Non-Registered CM/ECF Users

Following the submission of your November 7, 2012, inquiry regarding the use of electronic signatures, the Executive Office for United States Trustees contacted each regional United States Trustee regarding potential changes to the Federal Rules of Bankruptcy Procedure that apply to electronic signatures of non-registered CM/ECF users and solicited their input. Specifically, each United States Trustee was asked to respond to the following questions:

- How, if at all, any proposed alternative would negatively impact your local jurisdiction's current course of practice;
- Whether you have recommendations regarding what the national rule should be; and
- Whether you have experienced any specific wet signature issues in your local practice that, when summarized, would benefit the Federal Judicial Center as it considers this matter.

What follows is a rough summary of the responses received, as well as some additional information gleaned from the United States Trustee's responses that might be pertinent to the inquiry. It is not intended to set forth any official United States Trustee Program position regarding your inquiry, or the various areas of the law your inquiry might affect.

Summary of United States Trustee Responses:

The overwhelming majority of United States Trustees who responded prefer alternative "D" identified in your inquiry.²⁶ Among other things, the United States Trustees believe that alternative "D" represents the best approach because many Clerks' Offices already have similar requirements in place, so standardizing the practice of specifying a retention period for hand signed documents would be the least disruptive for all parties. Further, United States Trustees supporting alternative "D" believe that the ability to retain hand signed documents significantly advances their office's statutory mandate to prevent, both in the civil and criminal context, fraud and abuse

26. Alternative "D" would establish a national rule specifying the retention period for hard copy documents with manual signatures.

in the bankruptcy system. Finally, certain United States Trustee offices, while favoring alternative “D,” also believe that it would be helpful to require non-registered CM/ECF users, and in particular individuals appearing on a *pro se* basis, to electronically submit a scanned pdf copy of the original signature page of any corresponding document filed with a court. Suggested retention periods for hand signed documents ranged from one to seven years.

Attached, as Appendix A, is a chart, divided by United States Trustee Program region, indicating the ranked preferences for each alternative identified in your inquiry.

Possible Additional Implications of Proposed Rule:

Based upon the responses received from each United States Trustee, there appears to be a concern that the alternative approaches identified in your inquiry also potentially affect two important areas of interest to the United States Trustee Program. First, there appears to be a concern that criminal prosecutions might be affected. Second, there appears to be a concern that civil enforcement remedies, involving certain parties who may engage in abusive conduct in the course of a bankruptcy case, might be affected. Each concern is discussed below.

1. *Potential Effect on Criminal Prosecutions.*

United States Trustees have a duty to notify United States Attorneys of any action that may constitute a crime under the laws of the United States. 28 U.S.C. § 586(a)(3)(F). Crimes affecting the bankruptcy system include, *inter alia*, making a false oath, false declaration, or false statement, and presenting a false claim. 18 U.S.C. §§ 152(2), (3), and (4). Various documents filed in a bankruptcy case can serve as the vehicle for the commission of these crimes. Accordingly, to the extent the Advisory Committee is considering adopting a rule whereby documents containing a party’s hand signature (whether wet or a copy thereof) are not retained, United States Trustees appear concerned that criminal prosecutions might be affected.²⁷

A hand signature constitutes a form of proof that a person has read and verified the information contained in a signed document. Absent this proof, some United States Trustees expressed concern that criminal prosecutors may find it difficult to meet their burden of establishing criminal conduct, including intent, in a bankruptcy case. Indeed, anecdotal information provided by United States Trustees indicates that in certain jurisdictions, criminal prosecutors will summarily decline to prosecute even the strongest of cases when documents containing a party’s hand signature are not available. Therefore, given the current lack of settled law on the question of the evidentiary effectiveness of an electronic signature,²⁸ United States Trustees appear con-

27. We encourage you to contact both the Department’s Criminal Division and the United States Attorneys regarding this survey given their obvious expertise in the area of criminal law, and we understand that you may have already done so.

28. We are aware of only a handful of unpublished trial level decisions on this issue. See *United States v. Hyatt*, No. 06-00260, 2008 WL 616055 at *3 (S.D. Ala. March 3, 2008) (collecting decisions and finding that no evidence of a hand signature is required to establish criminal conduct in a bankruptcy case). We are not aware of any decisions arising out of the Courts of Appeal or the Supreme Court on this issue.

cerned that Alternative “A” identified in your inquiry²⁹ could potentially affect criminal prosecutions arising out of the bankruptcy system.

2. *Potential Effect on Parties Engaged in Abusive Conduct.*

To the extent the Advisory Committee is considering adopting a rule whereby documents containing a party’s hand signature (whether wet or a copy thereof) are not retained, United States Trustees appear concerned that the ability to combat abusive conduct in bankruptcy might be affected.

For example, anecdotal information provided by some United States Trustees indicates that in some cases challenges to a debtor’s ability to receive a discharge under 11 U.S.C. § 727(a)(4)(A) have been met with the claim that the debtor never signed the document providing the basis for the challenge, or did not sign the version of the document that was filed. Often these claims prove to be without merit once the United States Trustee receives a copy of the document because that copy routinely confirms that the debtor actually signed the document. Under these circumstances, the copy serves as crucial evidence in establishing the debtor’s wrongful conduct. However, if such documentary evidence is not available, because its retention is not required, United States Trustees and others would have no method to rebut a debtor’s claims that she never signed a document, or did not sign the version of a document that was filed.

Further, in the view of some United States Trustees, the answer to this unnecessary risk cannot lie in specifying that an electronic signature constitutes *prima facie* evidence of a valid signature, as Alternative “A” would do. *Prima facie* evidence can, on occasion, be overcome by convincing testimony. Second, in the event an unscrupulous individual files unauthorized papers on behalf of an unknowing debtor,³⁰ labeling an electronic signature as *prima facie* evidence of a valid signature would place the unknowing debtor in the position of having to prove that the electronic signature is invalid. In the view of many United States Trustees, neither of these results is satisfactory. Accordingly, for all of these reasons, the United States Trustees appear concerned that Alternative “A” identified in your inquiry might potentially affect the ability to stem abuse in the bankruptcy system.

We hope this summary of the United States Trustees’ views regarding potential changes to the Federal Rules of Bankruptcy Procedure that apply to electronic signatures of non-registered CM/ECF users is useful. Please contact us at (202) 307-1399 if you have any questions or if there is any additional information we can provide to assist you.

29. Alternative “A” would establish a national rule specifying that an electronic signature of a non-registered user in the CM/ECF system is *prima facie* evidence of a valid signature.

30. See, e.g., *Briggs v. Labarge, Jr. (In re Phillips)*, 433 F.3d 1068 (2006) (concluding that attorney who electronically filed chapter 13 bankruptcy petition on client’s behalf, without ever speaking with her to make sure that she wanted to file the petition, and without verifying that facts in second petition remained correct, violated Fed. R. Bankr. P. 9011).

**Ranked Preferences for Each Alternative
Identified in Inquiry – Divided by United States Trustee Program Region**

USTP REGION	ALT. A	ALT. B	ALT. C	ALT. D
1		1		2
2				1
3*				
4				1
5		1		2
6	1			2
7			2	1
8*				
9				1
10				1
11			2	1
12				1
13				1
14				1
15				1
16				1
17			2	1
18				1
19				1
20*				
21				1

* Denotes no response received from the United States Trustee Program region.

Appendix E

Comments from NABT Members on Proposed Rule Changes re: Wet Signatures and Retention of Signed Documents

Respondent 1

Dear Ms. Johnson,

I'm responding to your request for comments on handling of electronic signatures forwarded through the NABT. I am a chapter 7 trustee practicing in Massachusetts, and am also the author of *Bankruptcy and Secured Lending in Cyberspace*, a legal treatise published by West|Thompson on the impact of technology on bankruptcy law and practice.

A. A key problem I see with electronic signatures of non-filers is that in some cases the wet signature either does not exist or has a different date than the related electronic signature. I have even run across a couple of cases where the debtor did not even review the documents containing the signature. For example, in one recent case when the debtors' first case was dismissed due to attorney error, the attorney simply changed the dates on the signed documents and refiled them - three months later. I have another case going on now where the petition was filed on October 18, and the wet signature on the petition is dated October 22.

These kinds of events often go hand in hand with poor representation by counsel. Wet signature requirements play a hand in policing attorney behavior, as well as making sure that the debtors actually review and sign documentation.

Another issue goes to the idea of burden of proof. It's easy to say that the person challenging validity of a signature has the burden of proof, but the person challenging validity is often the person who signed. If they testify that they did not sign, and they did not create the electronic signature themselves (and, of course, they never do - the filer usually does) then absolutely no evidence exists to prove the signature. The evidence will usually come down to testimony and in many cases the only testimony will be that of the signatory.

Finally, a /s/ signature of a non-filer is not, strictly speaking, a proper electronic signature under the UETA or similar statutes because there is no act by the signatory in producing it. All action is taken by a third party. Absent use of a true electronic signature process, the evidence of execution is needed and should be retained.

B. You might consider having the UST hold signature packages instead. I would have to say that the courts, and the UST, are trying to go electronic. This obviously creates an added cost for both debtor's counsel and whomever has to retain the documents.

My suggestion would be a requirement that all wet signature pages be scanned and efiled, with a national retention period for the wet signatures. Preferably a shorter one, within the usual retention periods for attorney case files. Perhaps three years from case closure. The electronic scans should serve as appropriate evidence of execution under the best evidence rule and an indefinite retention period would, of course, apply to the scanned documents.

C. The problems with the declaration of electronic filing as the sole source of execution are as follows:

It often gets signed before other documents. Some attorneys even have debtors sign it when they first visit the attorney. How can you make these declarations before you sign the documents?

They are, more frequently than you might imagine, undated.

Again, there is no advantage to having the court handle originals. A scan really should suffice.

Respondent 2

Option C

Respondent 3

Dear Dr. Johnson,

The real problem with allowing debtors to use electronic signatures is that their attorneys too often abuse this privilege and file things without their client's knowledge. Sadly, many debtors never see or review most documents filed on their dockets by their attorneys, despite the fact that filing these documents is the equivalent of them swearing (via an electronic signature) under penalty of perjury.

This reality creates huge problems for the courts and trustees trying to prevent fraud. In my experience, debtors will always blame their attorneys for any mistakes found in their petitions ("I told my attorney about it but he forgot to list it"). Thus, as it now stands today, all electronic signatures are only, at best, prima facie evidence of a valid signature. Moreover, there is no way for anyone to prove that the wet signature which the attorney has on file actually was signed by the debtor before the documents were submitted. Too often, attorneys will routinely have their clients sign those pages back when the client first fills out an informational packet. The attorney later has a staff person type the contents of that packet into Best Case, which transforms the information into a petition.

That petition is then filed electronically through Best Case, all without the client ever seeing the finished copy he swears is accurate.

Debtors do not understand how the process works and trust their attorneys not to make mistakes. Alternatively, debtors use their attorneys as a convenient scapegoat for explaining why information which should have been disclosed was not hidden intentionally.

As such, all of the approaches (A-D) that you are considering will fail to hold debtors accountable for the contents of their petitions.

The only solution that will work is to have a rule which requires the debtors to initial every page of their petition (including any amendments) before it is filed on ecf. Then there is no way for the debtors to say that they did not mean to file what was filed. Additionally, if the debtors initialed every page, there would be no need for the attorney or the court to keep a wet signature.

Frankly, a digital copy of the petition (scanned and then uploaded on the docket with a person's actual signature or initials) is every bit as good as a wet one; it's highly unlikely that attorneys will forge their clients' signatures. This policy would also be consistent with the contract law principles that debtors already understand—if you sign it, you are accountable for its terms (whether you read it or not!).

The only people who might complain about requiring initials are attorneys who run bankruptcy mills, who are already cutting corners. After all, this would require an attorney to print out and give his clients at least one paper copy of their petitions (which they could keep in case they need them after discharge)—clients would then be responsible for signing the documents and making sure the attorney had one scanned digital copy of each (either returned by the client via email/fax or scanned by the attorney at his office). The attorney could still use Best Case for everything other than filing the petition, which would instead be done by logging into ecf.

While it is necessary/useful for attorneys to use electronic signatures for themselves, nothing good comes from letting debtors do the same. Debtors need a system that forces them to be accountable, not one that makes the attorney responsible for mistakes. The attorney is given this burden of getting real signatures and initials on each page in return for being let off the hook for liability.

It is a fair trade. And it is good for the system, as it will make debtors think hard about what they put on every page of their petitions. Instead of adopting national rules regarding signatures of non-registered CM/ECF users and retention requirements, stop letting non-registered CM/ECF users use electronic signatures. It is unnecessary (they are not repeat players in the system) and fails as evidence.

Those are my thoughts. Hope they are helpful.

Respondent 4

My preferred Option in C, the B, then A. If attorneys retain the wet copy, the period should be no more than 1 year after the case is filed. We scan all bankruptcy cases when the case is closed at the court and shred all paper.

Respondent 5

Ms. Johnson-

I read about your survey and am responding. I am a chapter 7 trustee and have held 341 hearings in approximately 10,000 cases. One current requirement is that I have to verify "wet" signatures.

Provided there is a requirement that the practitioner retain the wet signature as long as the case is open, I would not personally be opposed to destruction of that document once the case is closed. However, it has been my experience that practitioners regularly do not obtain all necessary signatures on documents, and in the event an issue arose whether a debtor actually signed a document or not, it seems to me the debtor's attorney should have to provide the original signature, at least until such time as the case is closed.

I have some attorneys who scan, in color, the blue-inked signatures, and I accept those at 341s. It seems that is another possible option for the retention (in some form) of the document.

Respondent 6

I would like D to be adopted with a one-year retention. Unfortunately, there is an attorney in my district that does not think his clients need to review the petition, schedules, financial affairs before filing and sign these documents with a wet signature. I have reported his practice to the US Trustee with proof. If no retention is required, you will be telling this attorney that his practice of not having his clients review and sign documents is OK.

Respondent 7

I think that option A is problematic because it does not seem to contemplate an original signature somewhere in the chain of documents. However, I do like the concept of not having to maintain an original signature in a file for an extended period of time after a case is closed and believe that filing a document with the Court that contains an original signature should be sufficient.

In Massachusetts, local rules govern electronic filing by registered and non-registered users. Statements under oath by non-registered users must be accompanied by a Declaration of Electronic Filing (sample attached) that is signed manually and contains some, but not all of the information set forth in your option C. (see Rule 7) The local rules also require attorneys to retain the Declaration of Electronic Filing for 5 years. I favor the approach in option A – that the filed Declaration should be sufficient and attorneys should not be required to retain the original so I guess I am advocating a combination of Option A and C. I do not favor option D and I think option B simply shifts the storage problem from the attorneys to the Court.

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The organization of the Center reflects its primary statutory mandates. The Education Division plans and produces education and training for judges and court staff, including in-person programs, video programs, publications, curriculum packages for in-district training, and Web-based programs and resources. The Research Division examines and evaluates current and alternative federal court practices and policies. This research assists Judicial Conference committees, who request most Center research, in developing policy recommendations. The Center's research also contributes substantially to its educational programs. The Federal Judicial History Office helps courts and others study and preserve federal judicial history. The International Judicial Relations Office provides information to judicial and legal officials from foreign countries and informs federal judicial personnel of developments in international law and other court systems that may affect their work. Two units of the Director's Office—the Information Technology Office and the Editorial & Information Services Office—support Center missions through technology, editorial and design assistance, and organization and dissemination of Center resources.