



Practice Tip of the Month
Electronic Signatures ... Are you compliant?

The United States Bankruptcy Court for the District of Idaho has required electronic filing since 2005. That means electronic signatures are applied to most documents filed with the Court.

The Electronic Case Filing Procedures for District of Idaho (amended January 1, 2011) on page 12 specify:

A Registered Participant filing a Verified Pleading electronically shall insure that the electronic version conforms to the original, signed pleading/document. Each signature on the original, signed pleading/document shall be indicated on the electronically filed Verified Pleading with the typed name on the signature line of the person purported to have signed the pleading/document. The electronic filing of a Verified Pleading constitutes a representation by the Registered Participant that he or she has the original, signed document in his or her possession at the time of filing. The Registered Participant shall retain the verified Pleading for a period of not less than the maximum 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. The document shall be produced upon an order of the Court.

That places several burdens on counsel filing electronic documents. First, there is an obligation to make sure that the electronic document tracks the document signed by your client or other counsel. Second, an original, signed version must be in the possession of the filing attorney at the point of filing. Third, filing counsel has an affirmative obligation to maintain the original signatures until the later of 1) time to complete any appeal or 2) closing of the case.

If one doubts the authenticity of a signatures filed, the ECF Procedures on page 18 provide that “[a]nyone who disputes the authenticity of any signature on electronically-filed document shall file an objection to the document within ten days of receipt of the document or notice of its filing, whichever first occurs.” As noted in the paragraph cited above, the Court may order production of documents bearing original signatures, presumably to resolve the authenticity of the signatures affixed.

Submitted by Steven L. Taggart