

The enforcement of these rules and local rules is a role for a judge. This amendment does not require the clerk to accept for filing papers sent to the clerk's office by facsimile transmission.

NOTES OF ADVISORY COMMITTEE ON RULES—1996  
AMENDMENT

The rule is amended to permit, but not require, courts to adopt local rules that allow filing, signing, or verifying of documents by electronic means. However, such local rules must be consistent with technical standards, if any, promulgated by the Judicial Conference of the United States.

An important benefit to be derived by permitting filing by electronic means is that the extensive volume of paper received and maintained as records in the clerk's office will be reduced substantially. With the receipt of electronic data transmissions by computer, the clerk may maintain records electronically without the need to reproduce them in tangible paper form.

Judicial Conference standards governing the technological aspects of electronic filing will result in uniformity among judicial districts to accommodate an increasingly national bar. By delegating to the Judicial Conference the establishment and future amendment of national standards for electronic filing, the Supreme Court and Congress will be relieved of the burden of reviewing and promulgating detailed rules dealing with complex technological standards. Another reason for leaving to the Judicial Conference the formulation of technological standards for electronic filing is that advances in computer technology occur often, and changes in the technological standards may have to be implemented more frequently than would be feasible by rule amendment under the Rules Enabling Act process.

It is anticipated that standards established by the Judicial Conference will govern technical specifications for electronic data transmission, such as requirements relating to the formatting of data, speed of transmission, means to transmit copies of supporting documentation, and security of communication procedures. In addition, before procedures for electronic filing are implemented, standards must be established to assure the proper maintenance and integrity of the record and to provide appropriate access and retrieval mechanisms. These matters will be governed by local rules until system-wide standards are adopted by the Judicial Conference.

Rule 9009 requires that the Official Forms shall be observed and used "with alterations as may be appropriate." Compliance with local rules and any Judicial Conference standards with respect to the formatting or presentation of electronically transmitted data, to the extent that they do not conform to the Official Forms, would be an appropriate alteration within the meaning of Rule 9009.

These rules require that certain documents be in writing. For example, Rule 3001 states that a proof of claim is a "written statement." Similarly, Rule 3007 provides that an objection to a claim "shall be in writing." Pursuant to the new subdivision (a)(2), any requirement under these rules that a paper be written may be satisfied by filing the document by electronic means, notwithstanding the fact that the clerk neither receives nor prints a paper reproduction of the electronic data.

Section 107(a) of the Code provides that a "paper" filed in a case is a public record open to examination by an entity at reasonable times without charge, except as provided in §107(b). The amendment to subdivision (a)(2) provides that an electronically filed document is to be treated as such a public record.

Although under subdivision (a)(2) electronically filed documents may be treated as written papers or as signed or verified writings, it is important to emphasize that such treatment is only for the purpose of applying these rules. In addition, local rules and Judicial Conference standards regarding verification must satisfy the requirements of 28 U.S.C. §1746.

*GAP Report on Rule 5005.* No changes since publication.

COMMITTEE NOTES ON RULES—2006 AMENDMENT

*Subdivision (a).* Amended Rule 5005(a)(2) acknowledges that many courts have required electronic filing by means of a standing order, procedures manual, or local rule. These local practices reflect the advantages that courts and most litigants realize from electronic filings. Courts requiring electronic filing must make reasonable exceptions for persons for whom electronic filing of documents constitutes an unreasonable denial of access to the courts. Experience with the rule will facilitate convergence on uniform exceptions in an amended Rule 5005(a)(2).

*Subdivision (c).* The rule is amended to include the clerk of the bankruptcy appellate panel among the list of persons required to transmit to the proper person erroneously filed or transmitted papers. The amendment is necessary because the bankruptcy appellate panels were not in existence at the time of the original promulgation of the rule. The amendment also inserts the district judge on the list of persons required to transmit papers intended for the United States trustee but erroneously sent to another person. The district judge is included in the list of persons who must transmit papers to the clerk of the bankruptcy court in the first part of the rule, and there is no reason to exclude the district judge from the list of persons who must transmit erroneously filed papers to the United States trustee.

*Changes Made After Publication.* The published version of the Rule did not include the sentence set out on lines 7–10 above [sic]. The Advisory Committee concluded, based on the written comments received and additional Advisory Committee consideration, that the text of the rule should include a statement regarding the need for courts to protect access to the courts for those whose status might not allow for electronic participation in cases. The published version had relegated this notion to the Committee Note, but further deliberations led to the conclusion that this matter is too important to leave to the Committee Note and instead should be included in the text of the rule.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**Rule 5006. Certification of Copies of Papers**

The clerk shall issue a certified copy of the record of any proceeding in a case under the Code or of any paper filed with the clerk on payment of any prescribed fee.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Fees for certification and copying are fixed by the Judicial Conference under 28 U.S.C. §1930(b).

Rule 1101 F. R. Evid. makes the Federal Rules of Evidence applicable to cases under the Code. Rule 1005 F. R. Evid. allows the contents of an official record or of a paper filed with the court to be proved by a duly certified copy. A copy certified and issued in accordance with Rule 5006 is accorded authenticity by Rule 902(4) F. R. Evid.

**Rule 5007. Record of Proceedings and Transcripts**

(a) **FILING OF RECORD OR TRANSCRIPT.** The reporter or operator of a recording device shall certify the original notes of testimony, tape recording, or other original record of the proceeding and promptly file them with the clerk. The person preparing any transcript shall promptly file a certified copy.

(b) **TRANSCRIPT FEES.** The fees for copies of transcripts shall be charged at rates prescribed