

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www.flsb.uscourts.gov

In re:

Administrative Order 2020-09

**Adoption of Interim Local Rule
9070-1. Exhibits**

The Court, having been advised by the Clerk of Court that electronic filing of exhibits is now available under this Court's CM/ECF program, has determined that amendment to Local Rule 9070-1 is necessary to implement requirements for mandatory e-filing of exhibits by registered users. Accordingly, it is

ORDERED as follows:

- (1) Effective immediately, for exhibits not already submitted and served in a pending matter, Local Rule 9070-1 is amended by substituting the following text as Interim Local Rule 9070-1.

Rule 9070-1. Exhibits

(A) Submission of Exhibits When All Parties Are Represented by Counsel. *If all parties in an adversary proceeding or contested matter are represented by counsel, unless the Court orders otherwise, exhibits must be exchanged and submitted via CM/ECF by no later than **4:00 p.m. four business days** before the scheduled trial or evidentiary hearing. The filing of exhibits via CM/ECF will constitute the parties' delivery of exhibits to opposing parties as required by the Order Setting Filing and Disclosure Requirements for Pretrial and Trial (the "Pretrial Order") entered in an adversary proceeding, or any similar scheduling order entered in connection with any contested matter. Instructions on the CM/ECF Electronically Stored Exhibit Upload program are located on the Court's website at www.flsb.uscourts.gov.*

(B) Submission of Exhibits if a Party Is Not Represented by Counsel. *If any party in an adversary proceeding or contested matter is not represented by counsel (a "pro se" party), then:*

- (1) *Each pro se party must submit her or his exhibits by sending them as Portable Document Format (PDF) files to the Clerk of Court by electronic mail to the following email address: ProSeExhibits@flsb.uscourts.gov, no later than **4:00 p.m. four business days** before the scheduled trial or evidentiary hearing. The Clerk will upload exhibits of pro se parties via*

CM/ECF. This procedure will constitute the pro se party's exchange of exhibits with represented parties.

(2) Represented parties must, no later than **4:00 p.m. four business days** before the scheduled trial or evidentiary hearing, (i) submit their exhibits via CM/ECF, and (ii) provide copies of their exhibits to each pro se party by email or via a cloud-based file-sharing service (and confirm receipt by the pro se party). In the event a pro se party is unable to receive copies of exhibits by email or via a cloud-based file-sharing service, a represented party must make alternative arrangements (including providing copies on a USB flash drive or, as a last resort, paper copies via express overnight delivery service) to provide copies of its exhibits.

(C) Compliance with Federal Judiciary Privacy Policy and Local Rule 5005-1(A)(2)(a).

(1) All exhibits submitted for filing must comply strictly with the federal judiciary privacy policy and Local Rule 5005-1(A)(2)(a). **Any party submitting an exhibit containing (i) unredacted personal identifiers (including, without limitation, full social security numbers, names of minor children, dates of birth, and financial account numbers), (ii) trade secrets or other confidential research, development, or commercial information, (iii) scandalous or defamatory matter, or (iv) matters that are made confidential by statute or regulation (collectively, "Confidential Information"), may be sanctioned.** Sanctions may include striking pleadings, motions, or other papers; limiting or prohibiting the use of any or all exhibits (not just the improperly submitted exhibits); and other sanctions in the Court's discretion.

(2) If a party determines that any Confidential Information should be considered by the Court at the trial or evidentiary hearing, that party must nevertheless submit redacted copies of its exhibits in accordance with sections (A) and (B) of this Order, and seek authority to file the unredacted exhibits under seal as provided for in Interim Local Rule 5005-1(A)(4) as adopted by Administrative Order 2020-01.

(D) Exhibit Registers and Numbering of Exhibits. Each party must prepare a separate exhibit register based upon the Local Form Exhibit Register (LF-49). Each exhibit submitted must be marked sequentially in numerical order and identified by the party submitting the exhibit (e.g., Plaintiff's, Defendant's, Creditor's, Respondent's Exhibit). After the conclusion of the trial or evidentiary hearing, the courtroom deputy will file a completed Exhibit Register in the case or adversary proceeding docket.

(E) Format of Exhibits. Each exhibit must be electronically stored in an individual PDF file. Each party shall create a separate PDF document for each exhibit, labeled with the exhibit number (e.g., "Plaintiff's Exhibit 1"). **Each PDF document shall not exceed 50MB in size.**

(F) Oversized Exhibits, Exhibits Other than Paper Documents, and Release or Disposal of Exhibits Not Electronically Filed.

(1) Oversized Exhibits and Exhibits Other than Paper Documents. *If a party wishes to introduce into evidence an oversized exhibit or an exhibit that is not a paper document, the party must scan or photograph the evidence, convert the file to a PDF file, and list the item on the Exhibit Register. If a party wishes the Court to consider at the trial or evidentiary hearing an oversized exhibit or an exhibit that is not a paper document, other than via the PDF file so tendered, the party must seek appropriate relief from the Court prior to the trial or evidentiary hearing.*

(2) Release or Disposal of Exhibits Not Electronically Filed. *No exhibit received in evidence will be released from the Court during the evidentiary proceedings without an order of the Court. After a matter is no longer subject to appellate review, an exhibit may be returned to the party offering it without court order upon a written request stating that no appeal is pending and the case or proceeding is final. Any exhibit not returned within 30 days after a matter is no longer subject to appellate review may be destroyed or otherwise disposed of by the Clerk without further notice.*

(G) Procedure for Use of Electronically Stored Exhibits.

(1) Use of Electronically Stored Exhibits in Court. *The electronically stored exhibits filed via CM/ECF Electronically Stored Exhibit Upload are the official exhibits for purposes of the trial or evidentiary hearing. If a party wishes to introduce an original document at the trial or evidentiary hearing, the party must seek appropriate relief from the Court prior to the trial or evidentiary hearing. Unless otherwise ordered, the parties and their counsel must use the Court's information technology equipment to show exhibits at trial. The parties are further encouraged to contact the courtroom deputy in advance of the trial for access to the equipment to ensure counsel can properly use the equipment at trial.*

(2) Providing Exhibits to Witnesses for Remote Hearings. *For any trial or evidentiary hearing conducted through remote means (e.g., videoconference or teleconference), unless otherwise ordered by the Court, each party must provide to each witness the party intends to call, a complete set of **all exhibits submitted by all parties** in the adversary proceeding or contested matter. Exhibits may be provided to witnesses by email, via a cloud-based file-sharing service, USB flash drive, or in paper form, and must be received by the witness so that the witness will have access to all exhibits during the trial or evidentiary hearing.*

(3) Additional Exhibits. *If any additional exhibits that were not uploaded via the CM/ECF Electronically Stored Exhibit Upload are offered or introduced into evidence during the course of the trial or evidentiary hearing,*

a complete set of such additional exhibits must be filed via the CM/ECF Electronically Stored Exhibit Upload. Each exhibit submitted must be marked sequentially in numerical order and identified with the title “[Party’s Name]’s Additional Exhibit “[exhibit number]” within three days after the conclusion of the trial or evidentiary hearing. A pro se party shall submit to the Clerk of Court his or her exhibits by electronic mail to: ProSeExhibits@flsb.uscourts.gov.

(2) The Local Form “Exhibit Register” shall be amended in accordance with amended Interim Local Rule 9070-1, and

(3) The Clerk is directed to provide notice of entry of this Order and to annotate the Local Rules published on the Court website to reflect adoption of amended Interim Local Rule 9070-1, and to update citations to this Rule in any court rules, forms or other documents as required to reflect renumbering of the Rule by this Order.

ORDERED in the Southern District of Florida, this 21th day of May 2020.



Laurel Myerson Isicoff
Chief United States Bankruptcy Judge

c: All Southern District Bankruptcy Judges
Joe Falzone, Clerk of Court – Bankruptcy