



An Organization Of

AMERICANS FOR LEGAL REFORM

**Comments Submitted to the
Committee on Rules of Practice and Procedure
of the Judicial Conference of the United States
Regarding Proposed Changes to:**

**Rule 5 of the Federal Rules of Civil Procedure,
Rule 25 of the Federal Rules of Appellate Procedure,
Rule 5005 of the Federal Rules of Bankruptcy Procedure.**

**Submitted by
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February 14, 2005**

HALT—*An Organization of Americans for Legal Reform* thanks the Committee on Rules of Practice and Procedure for the opportunity to submit comments regarding proposed changes to Rule 5 of the Federal Rules of Civil Procedure, Rule 25 of the Federal Rules of Appellate Procedure, and Rule 5005 of the Federal Rules of Bankruptcy Procedure. HALT is a national nonprofit organization representing the interests of consumers of legal services by working to make the civil justice system more accessible and accountable to those consumers. As part of this mission, HALT works to reduce and eliminate barriers that might prevent consumers from resolving their legal issues through self-help or at the lowest possible cost.

HALT commends the Committee for its continued efforts to conform the federal procedural rules to the needs of today's legal consumers and practitioners. However, on

behalf of our 50,000 members nationwide, HALT respectfully suggests slight modifications to the proposed rules to ensure that the new rules adequately reflect the needs of *pro se* litigants. While HALT agrees that there may be many advantages to encouraging or even requiring electronic filing in the vast majority of cases, HALT is concerned that the proposed rules do not require a court to make any exceptions to its electronic filing requirement if the court decides to make electronic filing mandatory. HALT appreciates and agrees wholeheartedly with the language in the comments to each proposed rule in which the Committee notes that “courts requiring electronic filing recognize the need to make exceptions for parties who cannot easily file by electronic means, and often recognize the advantage of more general ‘good cause’ exceptions.” These comments are an important addition to any proposal to allow courts to require electronic filing; therefore HALT strongly encourages the committee to include these comments in the rules themselves.

According to the American Bar Association, each year, 38 million low- and moderate-income Americans are shut out of the legal system simply because they cannot afford to hire a lawyer. Part of the solution to this crisis in access lies in expanding the ability of civil litigants to represent themselves in a wider array of legal matters. This is especially true in the context of bankruptcy proceedings, where bankruptcy filers cannot afford adequate legal representation almost by definition. As proposed, the new rules suggest that a bankruptcy court could require everyone—including *pro se* litigants—to file electronically. This would clearly be a great disservice to these litigants, putting them at an even greater disadvantage in handling their legal matters than they’re already in

today. The proposed rules would put *pro se* litigants at the same disadvantage in the civil context, and to a lesser extent, in the appellate context, as well. In order to maximize the ability of *pro se* litigants to handle their own legal affairs, HALT urges the Committee to revise its proposed rules as follows:

PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF CIVIL PROCEDURE¹

Rule 5. Service and Filing of Pleadings and Other
Papers

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(e) Filing with the Court Defined. The filing of papers with the court as required by these rules shall be made by filing them with the clerk of court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. A court may by local rule permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules. Courts requiring electronic filing must make exceptions for parties such as *pro se* litigants who cannot easily file by electronic means, allowing such parties to file manually upon showing of good cause. In any event, the clerk shall not refuse to accept for filing any paper presented for that purpose solely

¹ New material is underlined; matter to be omitted is lined through.

because it is not presented in proper form as required by
these rules or any local rules or practices.

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PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE

RULE 5005. Filing and Transmittal of Papers

(a) FILING.

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(2) Filing by Electronic Means. A court may by local rule permit or require documents to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A document filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules, the Federal Rules of Civil Procedure made applicable by these rules, and § 107 of the Code. Courts requiring electronic filing must make exceptions for parties such as *pro se* litigants who cannot easily file by electronic means, allowing such parties to file manually upon showing of good cause.

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PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF APPELLATE PROCEDURE

Rule 25. Filing and Service

(a) Filing.

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(2) Filing: Method and Timeliness.

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(D) Electronic filing. A court of appeals may by local rule

permit or require papers to be filed, signed, or verified

by electronic means that are consistent with technical

standards, if any, that the Judicial Conference of the

United States establishes. A paper filed by electronic

means in compliance with a local rule constitutes a

written paper for the purpose of applying these rules.

Courts requiring electronic filing must make exceptions

for parties such as *pro se* litigants who cannot easily file

by electronic means, allowing such parties to file

manually upon showing of good cause.

Once again, HALT commends the Committee on Rules of Practice and Procedure for its continued efforts to ensure our federal procedural rules meet the needs of today's legal consumers and practitioners. To that end, we urge the Committee to modify the proposed rules slightly in order to address the needs of *pro se* litigants.