



ECF Informer - December 2014

ECF INFORMER

Please use the navigation below or [view this edition of the ECF Informer in PDF format](#) [1]

Debtor-Defendant Representation

[Local Rule 2091-1](#) [2] Debtors Attorneys—Scope of Representation subsection (a) states:

(a) Scope of Representation. A debtor's attorney must represent the debtor in all aspects of the case, including the meeting of creditors, motions filed against the debtor, and post-confirmation matters. **The debtor's attorney must also represent the debtor in adversary proceedings filed against the debtor unless, pursuant to this rule, the Court has excused the attorney from this requirement. The scope of representation cannot be modified by agreement.**[emphasis added] The court may deny fees or otherwise discipline an attorney for violation of this rule.

CM/ECF has been modified to accommodate this local rule. The option to add an attorney for a defendant in an adversary proceeding is now available during the opening of the adversary proceeding. If the debtor is the defendant and is represented by counsel in the related bankruptcy case, Filing Users should click "Attorney" to add debtor's counsel from the bankruptcy case:



ECF Bankruptcy Adversary Query Reports Utilities Search Logout

Defendant Information
JOHN DEBTOR SSN / ITIN:xxxx-xx-5555

Office Address 1 123 MAIN ST
Address 2 Address 3
City SALT LAKE CITY State UT Zip 84115
County Country
Phone Fax
E-mail
Party text
Role in Bankruptcy Case Debtor

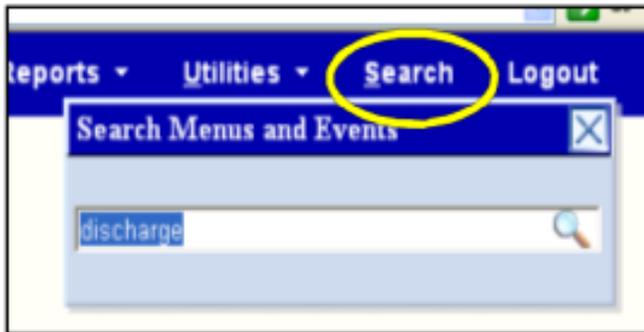
Attorney... Alias... Corporate parent / affiliate... Review... Add all attorneys, aliases and corporate parents or affiliates before clicking the Submit button.
Submit Cancel Clear

NOTE: Subsection (b) of [Local Rule 2091-1](#) [2] outlines the procedure debtor attorneys must follow to be relieved from the duty to represent debtors in adversary proceedings.

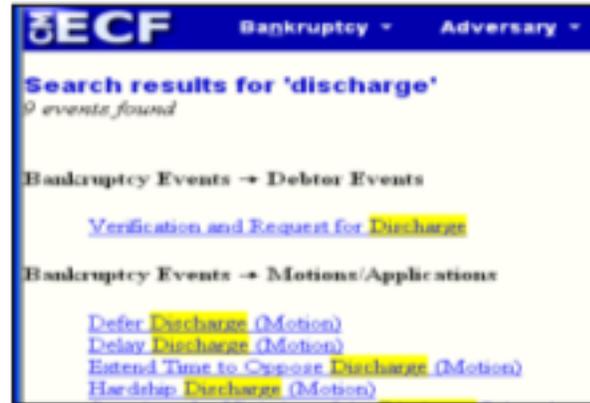
CM/ECF Search Menu

Many times a Filing User has prepared their document for filing, but doesn't know what menu or category to choose, or what docket event to select. Filing Users have an option on the blue menu bar at the top of the ECF window titled "Search." The "Search" feature is located between "Utilities" and "Logout" on the menu bar. (Figure 1)

The Search option is a very valuable tool for not only directing a Filing User to the category, but also shows the titles or "events", available with that language. Clicking "Search" opens a window that allows the Filing User to enter a keyword (Figure 1). After entering the term to be searched, a Filing User would then click on the magnifying glass icon or press Enter. All events with that language will appear as hyperlinks, along with the menus and categories they can be found under. (Figure 2) Clicking the desired docket event will begin the filing process.



(Fig. 1)



(Fig.2)

ECF Notifications

Filing Users now have the option to receive an email notification for each filing versus receiving a daily summary report. To change from receiving a daily summary report to receiving a notice for each filing:

1. Log into CM/ECF as a CM/ECF Filer.
2. Click the "Utilities" menu.
3. Click "Maintain Your ECF Account."
4. Click "Email Information."
5. Select "Send a notice for each filing."
6. Click "Return to Account Screen."
7. Click "Submit."

NOTE: The Clerk's Office will often edit, enhance, or alter the docket text after email notice has been sent but will NOT alter the document filed.

Replacing a Pending Order

In some instances, a pending order may need to be replaced with an updated version. Filing Users have the option to replace a pending order rather than filing a notice of withdrawal of document. The process for replacing a pending order mirrors the original pending order upload process with one exception. During the upload process a warning appears indicating that a pending order already exists for the same case and related document. Two options are available: 1) "Upload another order", or 2) "Replace the order(s)." Select the radio button to "Replace the order(s)"



and check the "Replace the order ####" box to indicate the pending order being replaced. See example below:

Single Order Upload

Warning: The following order(s) already exist for the same case and related document.

Case Info	Related Doc	Order
14-20142 Utah Sample and Sarah Sample Ch 13	10 Motion to Change Venue Filed: 12/05/2014	2956 By x1Crockett, Kyle 12/09/2014

Upload another order
 Replace the order(s)
 Replace the order [2956](#)

Next Clear

TRAIN
database

After the pending order has been replaced through the docketing process, the docket will indicate "This order replaces the prior pending order #..."

Addendum to Application to Waive Chapter 7 Filing Fee

Individuals filing for Chapter 7 Bankruptcy may be qualified to request a waiver of the Chapter 7 filing fee (\$335) by completing Official Form B 3B Application to have the Chapter 7 Filing Fee Waived. This form is to be completed and filed at the time of filing the bankruptcy petition. In addition, for the Bankruptcy Court District of Utah, debtors must also complete and file local form "District of Utah Addendum to the Application for Waiver of the Chapter 7 Filing Fee." The fee waiver application will not be considered until the Addendum to the Application, Statement of Financial Affairs and Schedules, and Payment Advices (and/or Payment Advice Certification) have been filed.

Email Reminder Notice re: Filing Fees Due

The Clerk's office sends emails to attorneys when an installment payment or filing fee is due. It is usually a very short one or two sentence reminder that an increment is owed and should be paid some time during that day. In some instances, it appears that these emails are either not being seen, or simply ignored. This is an attempt by the Clerk's office to aid debtors to pay their installments or fees owed in a timely manner to avoid dismissal. Please take advantage of this service and help ensure that the payments are made promptly by relying on these short emails.

Review Installment Payment Order



For those who file petitions under Chapter 7 or 13 seeking authority to pay the filing fee in installments, an initial minimum installment payment of \$100 of the total filing fee shall be made with the installment application, or within 14 days thereafter. Unless otherwise ordered by the Court and as a general policy, the second installment payment shall be scheduled for payment within 28 days of the date of the petition and a payment of at least \$50. In chapter 7 cases, the final installment shall be due and payable no later than 120 days after the date of the petition. In chapter 13 cases, the final installment shall be due and payable before the first scheduled confirmation hearing.

Due to these requirements, oftentimes the Order for Payment of Filing Fee in Installments does not coincide with the due dates and amounts listed in the original application. The Order, NOT the Application, is the controlling document for installment payment amounts and due dates. Filing Users should carefully review the Order for Payment of Filing Fee in Installments and adhere to the amounts and dates listed in the Order.

When filing the CM/ECF event to pay an installment payment, there are two events available in the “Debtor Events” category. The events are listed in alphabetical order to pay filing fees in installments, 1) “Electronically Paid Fee - INSTALLMENTS (FINAL)” and 2) “Electronically Paid Fee - INSTALLMENTS (INTERIM).” The “Electronically Paid Fee - INSTALLMENTS (FINAL)” should be used ONLY when making a Final Installment payment. For other Interim payments use the “Electronically Paid Fee - INSTALLMENTS (INTERIM).”

Schedules re: Conversion from 13 to 7 (Rule 1019)

When converting a case from Chapter 13 to Chapter 7, it may be necessary to add creditors to the schedules and creditor matrix. This amendment to the schedules and matrix is available at no charge IF the correct CM/ECF event is used. “Schedules Re: Conversion from 13 to 7 (Rule 1019)” event is available in CM/ECF in the “Debtor Events” category. This event will allow you to amend the schedules and add new creditors based on the conversion at no charge. The pleading should be filed within fourteen (14) days of the conversion date.

Motion to Vacate Dismissal: 341 Held or Not Held?

When filing a Motion to Vacate Dismissal in a case that is less than 2-3 months old, the Clerk’s office is asking that practitioners indicate in the motion whether the 341 meeting was held or not held. Sometimes it is difficult to discern whether the meeting was actually convened. If it is pointed out in the motion, the Judge ruling on the motion will have a clearer picture of what should be included or not included in the ensuing Order Vacating Dismissal, if granted.

Notice of Hearing vs. Notice and Opportunity for Hearing

Notice of Hearing: Notice of Hearing, [Local Form 9013-1](#) [3], is used when a hearing is “set” on the Court’s calendar. The notice indicates the relief being sought, the date objections are due, and the date the hearing will be held. Set



hearings are for non-routine or contested Chapter 7 and Chapter 13 matters, all Chapter 11 and Chapter 12 matters, and all hearings in adversary proceedings. In the absence of a timely filed objection, counsel may ask the court to strike the hearing.

Notice of Opportunity for Hearing: Notice of Opportunity for Hearing, [Local Form 9013-2](#) [4], is used when a hearing is “reserved.” Reserved hearings may be used for all routine Chapter 7 and Chapter 13 matters and relief from stay hearings. The hearing will not be an active setting unless a response or objection is filed. As with the Notice of Hearing, the notice indicates the relief being sought and the dates objections are due, but also indicates that a hearing on the motion will not become active unless a written objection is filed. Once the objection deadline has expired and no objections have been filed, counsel may submit a pending order granting the relief requested. There is no need to contact the court to strike the hearing. If a response or objection is filed, the hearing will activate as a set hearing on the calendar.

Note: If a moving party wishes to continue a hearing that has been activated after a response/objection has been filed, an Amended Notice of Hearing with the “Notice of Hearing (Amended/ Rescheduled/ Continued)” event code should be used to ensure the hearing is set on the Court’s calendar.

Scheduling Hearings

There are three options to schedule a hearing with the Bankruptcy Court:

1. Presets: Filing Users can view available hearing dates by clicking “Reports”, then selecting “Chamber Presets.” The “Chamber Presets” report shows available hearing dates and is separated by Judge and by type of matter. The presets are only to be used for short hearings on chapter 7 and chapter 13 matters. Presets cannot be used to obtain hearings for chapter 9s, 11s, or 12s; adversary proceedings; and longer or evidentiary hearings.
2. Online: A hearing may be requested by filling out the form on the Court’s website www.utb.uscourts.gov [5] under [Case Information](#) [6] - [Schedule a Hearing](#) [7]. The form should be filled out completely. The requesting party will be called if there are any questions or problems. A hearing will be scheduled and the requestor will be notified of the date via email.
3. Telephone: Call the scheduling line at (801)524-6627 to schedule a hearing.

CM/ECF Filing Agents

Some trustees and attorneys require multiple paralegals/staff members to docket simultaneously in order to complete necessary filings. Previously, there was no way to link multiple accounts to the same trustee or attorney. As a result the court had to create separate (X) accounts to allow staff to file on behalf of the trustee/attorney.

Now, a new user type is available called ‘Filing Agent’. A trustee or attorney may link several ‘Filing Agents’ to their user account so that when the agent files on behalf of the trustee/attorney, the docket text shows the trustee’s/attorney’s name as the filer.



Filing Agents -

- Can docket on behalf of the trustee/attorney
- Will not appear on the pick list for docketing (only the trustee or attorney name will show)
- Name will not show on the docket text. (the trustee or attorney name will show as the filer)
- Assume the rights and privileges assigned to the trustee or attorney's user account
- Will not receive email on their own. The Filing Agent's email address must be designated through the trustee or attorney's account in Maintain Your ECF Account: 'Secondary Email Address' and by checking 'Send the notices to the secondary addresses'
- Can docket restricted (SSN Verification Page, Writs) and sealed documents but cannot view them after docketing (the attorney/trustee main account must be used)

Contact the Bankruptcy Court's training department at 801-524-6575 or email them at utb_training@utb.uscourts.gov [8] for instructions on how to set up filing agents.

Source URL: <https://www.utb.uscourts.gov/ecf-informer-december-2014>

Links

- [1] https://www.utb.uscourts.gov/sites/default/files/attorney_newsletter_december_2014.pdf
- [2] <https://www.utb.uscourts.gov/local-rule/2091/1>
- [3] <https://www.utb.uscourts.gov/forms/notice-hearing-template>
- [4] <https://www.utb.uscourts.gov/forms/notice-and-opportunity-template>
- [5] <https://www.utb.uscourts.gov>
- [6] <https://www.utb.uscourts.gov/obtaining-case-information>
- [7] <https://www.utb.uscourts.gov/schedule-hearing>
- [8] mailto:utb_training@utb.uscourts.gov