

# ECF Informer

ISSUE 16

OCTOBER 5, 2010

## **NOTICE TO DEBTOR(S) OF DEFICIENCY CONCERNING DISCHARGE AND REQUIRE- MENT TO COMPLETE DEBTOR EDUCATION**

Practitioners are probably now aware of a new form being sent by the Clerk's office warning that debtors need to file their B23 forms (proving completion of their financial education requirement), or face the possibility of the case being closed without the issuance of a discharge. This new practice is in anticipation of an upcoming Bankruptcy Rule change (BR 5005) that becomes effective on December 1, 2010, which requires the Clerk's office to notify debtors of the pending possibility of a closing without issuance of a discharge.

If your case receives such a notice, please have your debtor handle this requirement expeditiously. If this requirement is taken care of in a timely manner, discharge procedures can ensue in a timely manner as well. The Clerk's office is attempting to minimize closing cases without issuing discharges, and the sending of this form is hopefully aiding this cause. It speeds up the administration of bankruptcy cases; lessens court time in that less motions to reopen will need to be filed; and, it will save debtors (reopening) filing fee costs that can easily be avoided by filing the proof in a timely period of time.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH

---

In re: Alan Jones Debtor(s) Case No. 10-20001 JTM Chapter 7

**TRAIN database**

**NOTICE TO DEBTOR(S) OF DEFICIENCY CONCERNING DISCHARGE AND REQUIREMENT TO COMPLETE DEBTOR EDUCATION**

This is a notification that your bankruptcy case may be closed without entry of a discharge on or after November 1, 2010 because you have not filed with the court the B23 form (Official Form 23 Debtor's Certification of Completion of Post petition Instructional Course Concerning Personal Financial Management) proving post petition completion of the personal financial management course which is a requirement for discharge. This requirement is different and separate from the credit counseling briefing you were required to complete prior to filing your bankruptcy case.

In order to receive a discharge of debts you must file with the court (prior to the case being closed) the B23 form certifying you have completed the course. A separate B23 form must be filed by each debtor. A link to a list of approved providers of the Instructional Course Concerning Personal Financial Management (Debtor Education) is available on the court's website at [www.utb.uscourts.gov](http://www.utb.uscourts.gov) or directly through the United States Trustee Program's website at [www.justice.gov/ust/eo/bapcpa/ccde/de\\_approved.htm](http://www.justice.gov/ust/eo/bapcpa/ccde/de_approved.htm). Classes are generally available in person, by telephone, or via the internet.

To avoid your case being closed without a discharge, please ensure that the required form(s) are received by the court no later than November 1, 2010.

PLEASE TAKE NOTE that if your case is closed without entry of a discharge, you may seek an order reopening your case to file the required certification. This is accomplished by filing a motion with the court to reopen your case along with payment of a case reopening fee of \$260.

If you feel that this notice has been sent in error or items have crossed in the mail, please call the court at (801) 524-6687 to confirm that we have received Form B23. Please have your case number available when calling the court.

### INSIDE THIS ISSUE:

Fee Payment Error	2
Referencing an Existing Pleading	2
Clerk's Notice of 341 Mailed Without Matrix	3
Clerk's Notice of Fees Due	3
Chapter 11 Monthly Financials	4
Fee Status Options for New Case Filing	4

### POP-UP BLOCKERS

Please adjust your Pop-Up Blockers settings when logged into the CM/ECF System in order to allow pertinent windows to pop-up when using certain events. In order to alter your pop-up blocker settings please do one of the following:

#### **INTERNET EXPLORER** (VERSION 6.0)

1. Select Tools
2. Select Pop-up Blocker
3. Select Pop-up Blocker settings
4. Enter the ECF web address and select Add
5. Select close

#### **MOZILLA FIREFOX** (VERSION 3.0)

1. Select Tools
2. Select Options
3. Select the Content tab
4. Select Exceptions next to Block pop-up windows
5. Enter the ECF web address and select Allow
6. Select Close

## **FEE PAYMENT ERROR**

Some electronic filers have encountered an error message after submitting payment for a document involving a filing fee. The message indicates that payment may not have been applied to the case, includes a transaction number and instructions to contact the court. Because the fee still appears as pending on the Internet Fees Due report, frequently, the electronic filer will simply resubmit payment instead of calling the court. Paying the fee a second time creates a much bigger problem, and may make it necessary to request a refund of the duplicate funds. Most often, payment actually *has* been received, and the transaction number is a receipt for the payment. Unfortunately, due to a system hiccup between Bankruptcy Court's ECF system and a separate e-commerce payment server, a popup message appears on the screen instead.

When an error following a fee payment appears, **please contact the court and do not pay the fee a second time.** Call the ECF Helpdesk at 801-450-3443, or contact the Financial Department directly at 801-524-3008. If the error occurs after normal business hours, close the pop-up window and call back at a later time. You may continue to file other documents. An email message is automatically sent to the court, so a record is made of the error, and court staff will also attempt to contact the account holder.

## **REFERENCING AN EXISTING PLEADING**

An electronic filer "links" a pleading when they reference a previously filed docket entry because they are, in some way, related to each other. It is not necessary to have several associated pleadings linked to a single entry. "Over linking" is not beneficial as it negatively affects the language in the final entry and can cause problems with the calendaring program. Only the relevant docket entry associated with the pleading being filed should be linked. Typically this would be a motion or other document that is the "moving" paper. Linking correctly is especially helpful in large cases as it allows an end user to easily follow a complicated docket sheet.. Figure 1 provides an example correct "linkage".

Within the Pending Order (Upload) procedure, the proposed order can only be linked to one relevant docket entry. The Clerk's Office would prefer that when submitting a proposed order, a reference should be made to the original relevant "moving" paper and not to a secondary pleading (e.g. motion for entry of order). Thus helping chambers determine which original pleading is being addressed, especially when multiple pleadings are pending at the same time in the case.

12	Pending Order (Other) related document(s) 10 Debtor's Response/Objection Filed by: (fst) [Order# 144020] (EOD: 09/15/2010)
Figure 1	Minute Entry Re: (related document(s) 10) Objection to Trustee's Recommendation for Dismissal) Objection sustained. The case will not be dismissed. OTF-Halliday. Appearance : David E. Halliday (db) (WTT,kmc,lc) (EOD: 08/17/2010)
11	Notice of Hearing (related document(s) 10 Debtor's Response/Objection) Filed by Nathan O Richmond Hearing scheduled for 8/16/2010 at 02:00 PM at US Bankruptcy Court. (fst) (EOD: 07/15/2010)
10	Debtor's Objection and Affidavit (related document(s) 2) Trustee/USTR's Recommendation for Dismissal) (fst) (EOD: 07/15/2010)
2	Trustee/USTR's Recommendation for Dismissal filed by Trustee/USTR. Date of Certificate of Mailing: 6/24/2010. Objection to Dismissal due by 7/19/2010. (Jubber tr, Gary) (EOD: 06/24/2010)

Finally, electronic filers are given limited access to "free-text" in order to clarify an entry. There is no need to type the name/type of the pleading (e.g. objection, response, etc.,) in free-text when the event code is already naming the pleading in the final text of the entry.

## **CLERK'S NOTICE OF MAILED 341 WITHOUT MATRIX**

There has been a recent flurry of cases that are ready for noticing where the matrix has not been filed/downloaded into the case. When a 341 meeting notice is sent to the BNC prior to the list of creditors being added to the case, an event is docketed to memorialize the noticing problem, and the responsibility then shifts from the Clerk's office to the attorney for debtor. All creditors must be noticed, and a certificate of service must be filed with the Court proving that the mailing was accomplished.

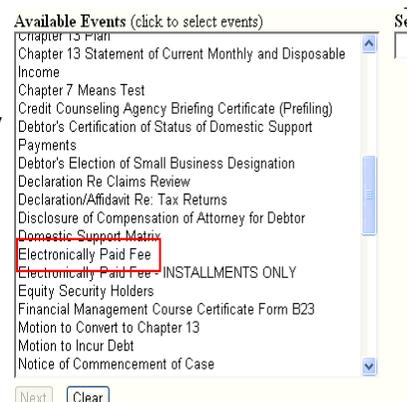
One portion of this procedure that may contribute to the noticing dilemma is that the Clerk's office cannot give any practitioners a definitive date when the calendar will be sent to the BNC for noticing. The calendar must be sent at one time, instead of cases being sent sporadically, because the Clerk's office "clumps" attorneys on the 341 calendar in order to minimize attorneys having to be at the 341 meetings at different times. The Clerk's office is only obligated to wait 2 days before sending the 341 meeting notice because the local rule directs all matrixes to be filed within 2 days of the case being filed. In addition, the Clerk's office cannot predict when a particular calendar is full; it obviously depends on how fast or slow a calendar fills as well as the noticing guidelines for the number of days of notice needed for a 341 meeting notice.

To ensure this does not occur in cases you file, be sure to file your matrix (load your creditors) when you file the case, or within 2 days.

## **CLERK'S NOTICE OF FEES DUE**

There are multiple filing events, which under the Bankruptcy Code, require the payment of a filing fee. A voluntary petition, a motion for relief from stay, and certain amendments are just a few examples. Often times an electronic filer inadvertently selects an event that does not have a fee attached when in reality a fee should have been incurred. In these instances, the clerk's office sends a "Clerk's Notice of Fees Due" to the electronic filer. In order to pay the fee noticed, the electronic filer should use the event "Electronically Paid Fee".

Electronically Paid Fee is found under the Bankruptcy menu in both the Debtor Events category and the Other category. As the filer proceeds, they are prompted to refer to an existing event. The filer should refer to the event that would have incurred the fee, not to the Clerk's Notice of Fees Due. After being prompted to select the correct amount to be paid, the filer proceeds to the final Notice of Electronic Filing screen. A pop-up window should appear at this final screen prompting the filer to pay the fee. If the pop-up window does not appear, the filer should make the adjustment within their internet browser to allow pop-ups from the CM/ECF website.





Honorable William T. Thurman  
Chief Judge

David Sime  
Clerk of Court

Glenn Gregory  
Chief Deputy Clerk of Court  
801.524.6561  
Glenn\_gregory@utb.uscourts.gov

Janene Tanner  
CM/ECF Administrator  
801.524.6562  
Janene\_tanner@utb.uscourts.gov

Kyle Crockett  
Training Coordinator  
801.524.6575  
Kyle\_crockett@utb.uscourts.gov

Lisa Bernson  
Training Coordinator  
801.524.6575  
Lisa\_bernson@utb.uscourts.gov

Helpdesk: 801.450.3443

Fax: 801.524.4409

We're on the web at  
[www.utb.uscourts.gov](http://www.utb.uscourts.gov)



## CHAPTER 11 MONTHLY FINANCIALS

It has come to the Clerk's office's attention that some practitioners have used the incorrect code when filing Chapter 11 Monthly Financials. Some filers are using "Chapter 11 Statement of Current Monthly Income", and this is not a Monthly Financial (this document is most relevant to the US Trustee's office). We have altered our dictionary to, hopefully, alleviate the confusion. The event code was recently changed in our dictionary from "Monthly Financial Report" to "Chapter 11 Monthly Financial Report" which will make this particular event more prevalent by virtue of its proximity to "Chapter 11 Statement of Current Monthly Income", as well as being easier to locate.

## FEE STATUS OPTIONS FOR A NEW CASE FILING

The fee status field has four options to select from when opening a new case: (1) Installment; (2) Paid, (3) Fee Not Paid (do not use), (4) IFP Filing Fee Waived. An filer must file an Application to Pay Filing Fees in Installments at the time of filing if the "Installment" selection is made. Likewise an Application to Proceed in forma pauperis must be filed at the time of filing if the "IFP Filing Fee Waived" selection is made.

ECF Bankruptcy Adversary Query Reports U

Help Desk 801-450-3443 (8am to 4:30pm Mon - Fri) [Court Website](#) [Local Rules](#)

Open Voluntary Bankruptcy Case

Prior filing within last 8 years no

Fee status Paid

Nature of debt Installment

Asset notice fee not paid (do not use)

IFP filing fee waived

Estimated number of creditors

Estimated assets

Estimated liabilities