

*Answers
to
Frequently Asked Questions*

I. Basic Information

1. **What is CM/ECF and What are the benefits of CM/ECF for attorneys, trustees and the general public?**

CM/ECF stands for Case Management and Electronic Case Filing. It consists of an automated case management and docketing system that operate in a Windows environment, and replaces BANCAP, the former case management system used in the Court. In addition to providing a case management system, it enables the court to create electronic case files and implement electronic filing over the Internet directly on the court's computer.

There are a number of significant benefits to the new case management system, including:

- C It is easy to use.
- C 24 hour electronic access to case files, seven days a week.
- C The normal time to file petitions, pleadings, and other documents is considerably reduced.
- C The amount of paper used and the necessary storage space are greatly reduced.
- C Copies of documents can be made instantly from an office or home computer.
- C All parties participating in electronic filing will receive electronic notice of filings, which reduces the costs of handling and mailing paper notices, and greatly speeds delivery.
- C The general public can access case files from public terminals or through a Web PACER account.
- C Creditors can also access case files through Web PACER, which will reduce the need for creditors to call the Trustee's Offices with questions.
- C Docket and report generation is made easy.
- C File usage allows simultaneous access by the public, bench and bar without the need to retrieve case files from a file room or from the Federal Records Center.
- C Court files will no longer become lost or misplaced.
- C The out-of-pocket cost of participation for attorneys is relatively low because the system uses Internet standard software.
- C Only Attorneys filing electronically will be able to pay with a credit card.

2. **When will CM/ECF be implemented in the U. S. Bankruptcy Court for the Western District of Tennessee and what chapters and/or documents are affected by this change?**

The Court will begin CM/ECF in this district on December 15, 2003. Electronic filings of all documents will be accepted in ALL chapters for ALL documents, except for Proofs of Claim [and those documents listed in CM/ECF guidelines] beginning this date. **On January 12, 2004, any party not registered to file electronically, will be required to file documents in .PDF format on CD or Diskette.**

3. **Will CM/ECF be mandatory at some point in the future in the Bankruptcy Court for the Western District of Tennessee?**

While electronic filing is not mandatory, it is highly recommended by all the Judges and the Clerk of Court for this district. Those not filing electronically, will be required to file all documents according to the established ECF Guidelines.

4. **Can any member of the public use CM/ECF to file documents with the court, including Pro Se filers?**

Anyone successfully completing the training classes provided by the Clerk's Office will be able to file documents electronically. Pro Se filers will not be accessing CM/ECF except through the public terminals in the Clerk's Office.

5. **Can CM/ECF cases and the documents in those cases be viewed by the general public?**

All documents in cases filed after December 15, 2003, will be able to be accessed electronically, along with attached documents. Cases filed prior to that time, will have access to the title of documents only, since they were filed in our previous case management system.

II. Implementation Policies

1. **How will attorneys qualify for participation in the CM/ECF system?**

An Attorney practicing in the U. S. Bankruptcy Court for the Western District of Tennessee and is in good standing will be eligible for a login and system password to permit participation in the electronic filing of pleadings and other documents. After successfully completing the training (*or online training for those currently filing in other districts*) required, to receive a login and password, he or she will be responsible for adhering to the established "Standing Order re: ECF", and the Guidelines for Electronic Filing Documents.

2. **Are there any training costs assessed to attorneys and other users?**

There is no charge for training, the debtor's attorneys will earn four (4) CLE credits and the creditor's attorney will earn two (2) CLE credits.

3. **Will Attorneys who are registered be required to file all bankruptcy documents electronically?**

All pleadings and documents filed in connection with a case will be filed electronically, unless approved by the Court or the Clerk of Court, prior to filing, and in the event of technical failure. Documents not filed electronically will be required to be filed via Diskette or CD in .PDF format. [See ECF Guidelines for details of filing of documents, and/or exceptions].

4. **What documents will be allowed to be filed in paper format?**

Unless approved prior to filing by the Court or Clerk of Court, all documents should be filed electronically, or in .PDF format on CD or Diskette. Prior to filing documents to be placed under seal, a motion should be electronically filed to be considered by the Court.

5. **How will the General Public be given access to the CM/ECF system?**

Any person or organization with a PACER account may access the system via Web PACER on a "read only" basis. Anyone without a password will have electronic access to the electronic docket and documents via "read only" public terminals at the Clerk's Office, during regular business hours. *See Electronic Case Filing Guidelines for more information.*

6. **Will an Archival Retrieval fee still be required, when retrieving a paper case file from the Archive Center?**

Yes. This fee has been established by the Administrative Office, and must be assessed whenever a file is ordered from the archives pursuant to the Miscellaneous Fee Schedule. With the implementation of CM/ECF, closed and active cases which had been docketed on BANCAP have been converted to the CM docketing system. These cases are made available electronically, and it is no longer necessary to retrieve these files from the archives or pay the retrieval fee. Therefore, the fee will continue to be assessed for archived files that are not maintained electronically.

III. Procedural Issues

1. **How are details on filing and procedural issues made available to those participating in ECF?**

The U. S. Bankruptcy Court for the Western District of Tennessee will continue to provide information and updates regarding Electronic Case Filing via our website at www.tnwb.uscourts.gov. On this same website, we have provided access to our current Standing Order re: “ECF” and the Administrative Procedures Manual/Guidelines for Electronic Filing. The Clerk’s Office will continue to provide quality public service and be available to answer questions on the telephone or at the intake counter.

2. **Are Federal and Local Rules in place to establish procedures for electronic filing?**

The Federal Rules of Civil Procedure currently authorize courts to permit electronic filing of documents by local rule. [See Fed. R. Civ. P. 5(e); Fed. R. Bankr. P. 5005(a)(2), 7005, 8008(a).] On December 1, 2001, amendments to Fed. R. Civ.P. 5(b), 6(e) and 77 and Fed. R. Bankr. P. 9006(f) and 9022 went into effect, permitting service of documents (including court orders and notices, but not service of process) by electronic means when parties have consented to the service in writing. The Western District of Tennessee, U. S. Bankruptcy Court adopted a Standing Order Re: “ECF”.

3. **How are signatures obtained in an electronic filing system?**

The electronic filing of a document by a registered attorney constitutes that attorney’s signature. The pleading or other document filed electronically will indicate a signature as “/s/name.”

4. **How is payment of filing fees handled for CM/ECF cases?**

Those filers approved to file documents electronically may also pay filing fees by Credit Card. Debit Cards are not accepted. Filing fees will continue to be accepted in the form of Money Order, Cashiers Check, and Cash. [**No cash accepted in our Jackson Office**]

****See special note below****

- < Obtain a sufficient credit limit on the card. Communicate with the credit card company what you are doing and how you will be using the credit card. Many credit card companies are willing to work with you on obtaining a higher limit.
- < Obtain a credit card that you can track your balance/limit over the Internet.

- < For bookkeeping purposes, use the card solely for court costs.
- < Establish a credit card through a bank that you deal with regularly.

5. **How does ECF handle case assignment?**

The case number will automatically be assigned at the end of case opening.

In Memphis: The Judge will automatically be assigned, after the filer selects this option, after the case has been opened. The Chapter 7 Trustee will be randomly assigned by the U. S. Trustee's Office and the Chapter 13 Trustee will be randomly assigned by the Clerk's Office.

In Jackson: The Judge and the Chapter 13 Trustee will automatically be assigned, after the filer selects this option, after the case has been opened. The Chapter 7 Trustee will be assigned randomly by the U. S. Trustee's Office.

6. **What will happen if a case is filed in the wrong office?**

If a case is filed in the wrong office, either electronically or over the counter, the attorney will be required to file a motion and proposed order to transfer the case to the proper office.

7. **How will users of the system view documents that have been filed in a case in which they are a party?**

Documents can be viewed through use of either the ECF login and password or a Web PACER login and password. If access is gained via the ECF system, the user will be assessed the \$.07 per page Web PACER fee (trustees excepted), with a maximum cost of \$2.10 for each document. All subsequent online viewing will result in the assessment of the fee. During the viewing, documents may be saved on the user's computer to enable later viewing or printing without charges.

8. **How are docket entries made in the CM/ECF system?**

Electronic submission of a document constitutes an entry on the docket, and requires the filer to perform whatever procedures are necessary to docket the event using an index of acceptable docket events.

9. **How are erroneous or incorrect docket entries, or documents filed in error corrected?**

Electronic submission of a document constitutes an entry on the docket, and requires the filer to perform whatever procedures are necessary to docket the

event using an index of acceptable docket events. The Clerk's Office will review entries made and contact filers as needed regarding errors, or erroneous entries. If errors are noticed on the docket, please contact the Clerk's Office immediately. Documents will not be deleted from the docket, unless Ordered by the Court. Corrective entries will be noted on the docket. Filers that continue to make errors may be required to retrain.

10. **Who is responsible for editing docket entries?**

Users can not edit anything once it has been uploaded into the court's database. During docketing of an event, an attorney can select from specific pull down menus only. An attorney can also add to the docket entry using free text, but only during the preparation of the docket entry. Once the docket entry and document have been officially submitted and electronically accepted by the court, only court personnel can revise or edit the docket entry.

11. **How are claims processed?**

Proofs of Claim for **ALL** Chapters, including Chapter 13 **will be processed by the Clerk's Office Staff**. Please DO NOT forward claims to the trustee, instead forward to one of the addresses below:

Memphis: U. S. Bankruptcy Court
Clerk's Office
200 Jefferson, Suite 413
Memphis TN 38103

Jackson: U. S. Bankruptcy Court
Clerk's Office
111 South Highland, Suite 107
Jackson TN 38301

12. **How are EMERGENCY pleadings filed?**

Emergency motions and complaints for temporary restraining orders shall be filed electronically, but the filer is responsible for contacting by telephone the Judge's staff person (Courtroom Deputy, Law Clerk, or Secretary), for the appropriate Judge, to advise them of the filing, at the time of transmission.

13. **How are Multi-Part Motions filed?**

The types of motions that can be filed will be displayed in a drop-down menu. The user may select one or a list of motions. The system then processes each of the motion parts, one at a time, leading the filer through the steps necessary to complete each part.

14. **How should a user file documents that are not listed in the pick list or a drop down menu?**

The user should double check the docket list provided and contact the help desk number provided on the court web-site or at the time of training.

15. **How will a party receive notice of an electronic filing?**

Upon the filing of a document, a Notice of Electronic Filing (also referred to as a receipt) will be generated that includes information about what was filed. The docket text of the docket entry, the unique document stamp, and a list of case participants who receive E-Mail notification of the filing and a list of those who do not receive notice via E-Mail, will also appear.

The Notice of Electronic Filing sent to those listed as receiving E-Mail notification will contain a hyperlink to the filed document. The onus is then on each of the parties to access the CM/ECF system or Web PACER in order to view the specific document that was filed.

16. **Does the Notice of Electronic Filing satisfy service requirements?**

Yes.

17. **How are orders served?**

Orders and Judgments are served electronically unless the judge assigned to the case specifically indicates that paper copies should be mailed. In the event a party or creditor in the case does not have an E-mail address registered with the Court, service will be accomplished by a paper mailing from the Bankruptcy Noticing Center (BNC).

18. **How does the Clerk's Office verify that documents have been filed correctly?**

Since Attorneys will be making docket entries electronically, the primary job function for the Case Administrators will be quality assurance. This will include tracking the receipt and accuracy of documents.

19. **Does the system check for duplicate case filings when a user opens a case?**

The CM/ECF software does not automatically check for duplicate filings. However, when adding a party to a case, a list will be presented with the names of parties that have already been added to the database, which provides a list

comparison. The ability to search by social security number in the Query function will assist in identifying duplicate filings. Finally, the standard reports available with the application, as well as the national U. S. Party/Case Index, will enable staff persons to check for repeat filings and filings in other districts, at anytime.

20. **Is the ECF system accessible during non-business hours??**

The system is generally available 24 hours a day, 7 days a week. However, the system may occasionally be down for maintenance or other purposes.

21. **What is the result if documents are not timely filed due to inoperable equipment or technical failure?**

C Filings are considered timely, if received by the court before midnight, on the date set as the deadline, unless the Judge specifically requires an earlier filing. If the Court's electronic filing equipment is inoperable at or around the deadline for filing any paper, the movant should submit as soon as practicable to the Clerk of Court in .pdf format on CD or Diskette, the document(s) to be filed. In the event of technical failure of the Courts electronic system, the documents will be accepted with the understanding that the late filing will be excused, unless an extension is prohibited by law.

C If the late filing is due to the movant's electronic filing equipment being inoperable, the movant should submit as soon as practicable to the Clerk of Court a paper filing of the documents, with prior approval by the Court or Clerk of Court. The document(s) will be accepted with the understanding that the Judge may be required to determine if circumstances justify an excused late filing.

Except in the case of technical failure, parties registered to file electronically are expected to file electronically. Any documents not filed electronically should be submitted to the court in .pdf format on CD or diskette, with the exception of proofs of claim not able to be filed electronically.

23. **Will the drop box continue to be available for filings?**

Yes; however, beginning November 20, 2003, there will be no back dating of documents placed in the drop box. Items placed in the drop box beginning this date will be given the next business date's file stamp date.

IV. Trustee Issues

1. **If attorney serves as a Trustee in some cases and as a Private Attorney in others, will he or she be given to separate logins and passwords?**

Yes. A login and password will be issued to file as a Trustee and as an Attorney.

2. **Are the trustees exempt from the cost in Web PACER for viewing documents?**

Yes, while acting in their capacity as trustees. Trustees who also practice as filing attorneys should take particular care to use the assigned attorney login and password or trustee login and password when filing online.

3. **Are creditors able to access the ECF system through Web PACER, thus reducing the need for creditors to call the trustee's offices with questions?**

Yes.

V. Systems Issues

1. **What Hardware and software do attorneys need to participate in ECF?**

- C An internet provider with a connection speed of 56kps/minute minimum.
- C Netscape 4.6x, 4.7x or Internet Explorer version 5.5.
- C Windows-based petition or word processing software.
- C Adobe Acrobat for conversion of documents to portable document format (PDF).
- C Personal computer running a standard platform such as Windows, Windows 95 or higher.
- C An optical scanner. This should only be used when filing attachments or supporting documentation. When filing typical documents with the Court, PDF files should be created natively using Adobe Acrobat without scanning printed pages.

2. **Does ECF accept other document formats in addition to PDF?**

No, ECF accepts documents in PDF format only. The PDF format was chosen because it is an open publishing standard which preserves the author's document content and format, including any special fonts that were used.