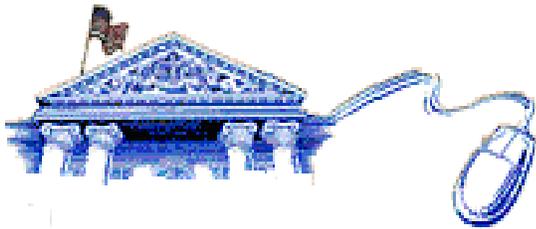


CM/ECF News

Filing statistics. Use of electronic filing continues to grow. There currently are approximately **100** “full participant” filers - attorneys and trustees - and over **70** “limited participant” creditor filers who are able to file documents such as proofs of claim and requests for notice. During the first three weeks of 2004, more than **45%** of bankruptcy petitions were filed via the Internet, as well as **38%** of all docket entries and **18%** of all claims.



FAQs

Can the court suggest ways to handle all the e-mail received from CM/ECF filings? Unfortunately, there are many different e-mail programs and the court does not have the resources to research the particular setup in your office. However, the PACER service center has posted a document that may provide some guidance in managing e-mails. The material was produced by the Office of the United States Trustee and recommends certain procedures, including how to set up rules using Microsoft Outlook. For more information, go to: http://pacer.psc.uscourts.gov/announcements/general/manage_email.html.

Why does it sometimes take so long to open a PDF? The most frequent problem is memory that may be filled to capacity with temporary internet files. These files are stored temporarily in a “cache” to reduce time connected to the network. The solution is to “clear the cache” in your browser. In Internet Explorer, go to Tools ... Internet Options ... Temporary Internet Files and click on Delete Files ... OK ... OK. In Netscape, go to Edit ... Preferences ... Advanced ... Cache and click on Clear Memory Cache and Clear Disk Cache. You also may want to consider increasing the size of the cache. You should consult the person who set up your computer system for an appropriate setting.

I just filed a document - Why don't I see it on the docket? You probably need to clear the memory cache. See the item above.

Why do I get the message that a transaction has already been posted when trying to docket something? You probably docketed an event for a case, and then clicked on the browser back button a few times to get to a point where you could enter another case number and then docketed another event. By clicking the back button, instead of clicking on ‘Bankruptcy Events’ you are keeping the information pulled for the last case you docketed. As long as you click on the menu item instead of clicking on Back you'll be fine - only use the back button to correct a mistake on an event you are in the process of docketing, and not to change cases.

Why am I missing some of my menu items in ECF? If you have been working in PACER to view documents and then switch back to ECF to file something, you may need to “refresh” your screen. Right-click with your mouse and select “Refresh.”

I receive a message that I may not be able to view a document online because I do not have the latest version of Adobe Reader - Do I need to upgrade? You probably will be able to view the document despite that message. However, you may want to consider downloading the current version of the application. For a free download of Adobe Reader 6.0, go to: <http://www.adobe.com/products/acrobat/readstep2.html>.

Does my certificate of service need to include the parties served electronically by the court via e-mail? Yes. If a party has received service by CM/ECF e-mail, the certificate should identify that party with the notation that “court records indicate that service was made using the court’s transmission facilities.” New court-approved form certificates of service (hib_7005-1 and hib_7005-13) with this language are available at the court website.

I am still unsure about electronic filing - Can I get more training? Yes. We will be happy to schedule a refresher session customized to your concerns.

Why does the court emphasize relating documents?

The judges and other court staff utilize various reports in CM/ECF to review motions and other matters. If an opposition, reply memo, declaration, etc., is not related to the underlying motion, it may not be included in a report and therefore may escape attention. A guide to relating documents is attached to this newsletter.

I tried to relate my response to a motion but it was not on the list - What happened? Documents filed in CM/ECF are assigned certain codes in the database. If a filer submits a motion but files it as a “miscellaneous document,” it is not coded as a motion and will not appear on the list of motions. If you cannot complete the filing submission because you cannot relate your document, please contact the help desk. If it is after hours and timeliness is a factor, select an event such as “statement” or “memorandum” under Miscellaneous Documents and notify the help desk at the earliest possible opportunity so that your document can be linked properly.

May I file a declaration containing a faxed signature? Yes - if filing electronically. Simply file the document and retain the originally signed document upon receipt. Do not attempt to file the same document again with the “original” signature page (any subsequent electronic filing will still only be a copy). Note that paper documents submitted over the counter require an original signature.

I have named unidentified Doe parties as defendants - Should I add them as parties when filing the complaint? No. It is sufficient that the provision for unidentified parties is in the complaint itself. Do not create such parties in the database. Exception: a Doe party should be added if the identity is known but being protected, as with a minor child who is the plaintiff.

Will the court serve an amended Chapter 13 plan? Yes, if filed in ECF. Effective December 1, 2003, the court generally will serve through BNC a copy of a Chapter 13 plan or amended plan if filed electronically. The court also will serve a plan filed over the counter - but only the original plan filed together with the petition.

Because LR 5.1 no longer bars the filing of discovery materials, may I file such documents with the court? No. The local rule was changed because Fed. R. Civ. P. 5 was amended in 2000 to supersede any local rule on filing certain papers. By federal rule, parties “must not” file initial disclosures and other discovery materials until they are ready to be used in a proceeding or the court orders the filing. The documents which must not be filed include subpoenas and notices of taking depositions.

To satisfy the new requirement to include a notice list when submitting a proposed order, may I attach the case creditor matrix to insure adequate service? No. The list is to assist court staff in giving specific notice of the entry of the order to the “contesting” parties - not all parties and creditors in the case. The moving party or the party directed to prepare the order generally has the best idea who those parties are, and should include only those persons on the list. Please note also that the court generally does not serve a copy of the order itself on these parties, only notice of the order’s entry.

Why was I told to file a notice of hearing when I already filed one attached to my motion? New Local Bankruptcy Rule 9073-1 requires the filing of a separate notice because the court controls its calendar by tracking these documents. The report finds only those notices docketed separately. Please note also that the rule requires the notice to include a concise description of the relief requested. For example, a notice for hearing on a motion to sell should identify the property, the sale price, the seller and buyer, etc., not just recite that a motion to sell will be heard.

My client is converting from Chapter 13 to Chapter 7 - Do I need to pay a fee for filing the schedule of postpetition debts required by Fed. R. Bankr. P. 1019(5)? No. Use the event “Schedules - Postpetition Debts (Ch 13 Case Converted to Ch 7)” under Miscellaneous Documents, not “Schedules - AMENDED.”

I used the wrong event and paid the fee - Can I get a refund? Notify the court immediately - it may be possible to void the credit card transaction. If you seek a refund at a later date, you will need to file a motion (“Refund Fees - Internet Credit Card” under Motions/Applications) and provide details. The court may not always authorize a refund because the wrong event was selected, so please be careful in choosing an event.

I have questions not addressed here - How can I get answers? Call the help desk (522-8100 x 171) between 8:00 a.m. and 3:30 p.m., or e-mail your questions to helpdesk@hib.uscourts.gov. We will try to give you a timely answer and also pass the information along to others by continuing to publish FAQs in this newsletter.



CourtNotes. This email newsletter is intended to keep the local bar informed about CM/ECF and other court news and procedures. If you wish to be added to (or removed from) the court’s email list for receipt of this newsletter, or if you have any comments or questions, please contact Mark Van Allsburg, Clerk of Court, at mark@hib.uscourts.gov or Mike Dowling at michael_dowling@hib.uscourts.gov.

RELATING DOCUMENTS

1. **Why relate documents?** Relating a document (*i.e.* referencing and creating a link to a previous docket entry) greatly assists those reviewing a case docket in finding all documents that concern a particular motion or other matter. In addition, documents that have been related appear on various reports used by the judges and law clerks in preparing for both hearing and non-hearing matters. Relating documents correctly helps ensure that the court will be taking all relevant filings into account before making a decision.

2. **Which of the previous docket entries do I relate to my document?** Selecting which documents to relate is a matter of common sense and some discretion. However, the following generally apply.
 - % Always include the underlying motion, application, or objection to claim or exemption - that is, the initial link in the chain of documents concerning a matter before the court.

 - % Identify the main documents that pertain **directly** to the document being filed. For example, a certificate of service must relate to the particular documents that were served.

 - % Do not include documents that are related only indirectly to the document being filed. For example, a notice of hearing relates directly to the motion being heard, but not to supplemental items such as a memorandum in support or a declaration offered in support.

See the **illustration** at the end of this section for further review of how to relate documents.

3. **Is relating a document always required?** Not always, but in filing certain documents you must identify a related document. In these instances, the following instruction will appear with a preselected list of prior docket entries.

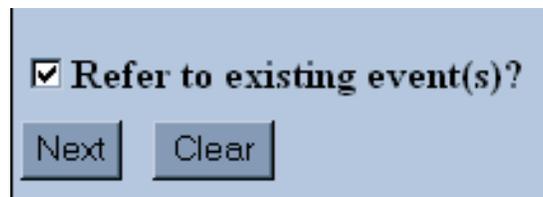
Select the appropriate event(s) to which your event relates:

For example, this would occur in filing a motion to alter or amend an order or judgment. Such a motion necessarily refers to an order or judgment already docketed. A list of all orders and judgments docketed in the case should appear on the selection screen. If no selection is made, a **Back** button or a message warning that filing cannot continue will appear.

4. **What if I get a message that I can't continue because there are no related documents?** If relating a document is mandatory and no selection is made, a message may appear warning that filing cannot continue. Return to a previous screen and select a document. If you cannot continue because there is no list of documents or the document you need is not included, please contact the ECF Help Desk for assistance.

Note: this situation typically occurs where the person filing the previous event to which your document should be related made an incorrect selection. For example, instead of selecting Application for Compensation, the filer chose Summary Sheet and typed in "and Application" as additional text. If you are trying to file an opposition in response to the request, the program will search for a pending application (that does not exist) and will not find the summary sheet even though "application" was included in additional text.

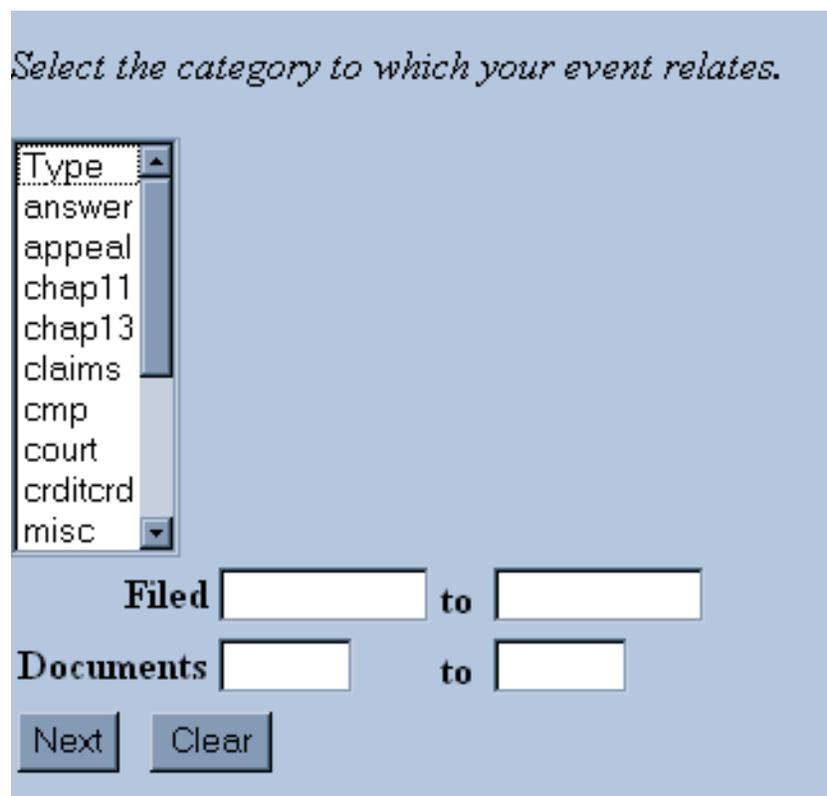
5. **What if I am asked to refer to existing events?** This occurs when there is no predetermined set of documents to relate. Rather, you are prompted to create a list by checking a box:



Refer to existing event(s)?

Next Clear

On the next screen, you must select the category of documents to relate. To select more than one category, hold down the **Ctrl** button while clicking (this also works for all menus). If you know the docket is long, you also have the option to narrow the range of the selection by entering dates and docket entry numbers. However, these fields may be left blank.



Select the category to which your event relates.

Type
answer
appeal
chap11
chap13
claims
cmp
court
credtrcd
misc

Filed to

Documents to

Next Clear

6. **What if I am not sure which categories of related documents to include?** It is advisable to highlight the entire list if you are uncertain about which categories to include or if the document you want to reference is not on the list when you clicked on only one category.
7. **How do I select more than one item on a drop-down list?** To select more than one item, hold down the **Ctrl** button while making the selection. To select all categories, left-click on the top of the list, then scroll down by dragging the mouse and keeping the left-click button depressed. This will highlight all categories. In relating documents where there is a large docket, you have the option to narrow the list by entering filing dates and docket entry numbers.

Select the category to which your event relates.

court
crditord
misc
motion
notice
order
plan
tee13
trustee
utility

Filed to

Documents to

Next Clear

8. **What if I am not prompted to relate a document but I think I should refer to a previous docket entry?** Some filing events are not set up to relate documents automatically. You always can make a reference to another document by typing in additional docket text. However, you should realize that no link is created which would allow one to “jump” to the referenced event.

9. **Is there an example of how to relate documents?**

In this illustration, a debtor requests court approval for a sale of real property. In response, a creditor opposes. The debtor subsequently replies. (The below numbered events track a sample docket which is attached at the end of this example.)

30. The debtor's attorney ("movant") files a **Motion to Approve Sale**. With the motion, the movant attaches two additional PDF files - a **Memorandum in Support** and a **Declaration of I.M. Lawyer in Support**.

Related Documents: None. Generally, a motion is the initial event. There may be some relationship with a previous document (e.g., an order approving employment of realtor), but it usually is unnecessary to reference and create a link to it.

31. Movant realizes that he neglected to include a current title report for the real property, required by LBR 6004-1(b). Movant then files a **Declaration of I.M. Lawyer** with the **Title Report** attached.

Related Documents: [30] **Motion to Approve Sale**.

32. Movant obtains a hearing date and files a **Notice of Hearing**.

Related Documents: [30] **Motion to Approve Sale**. The hearing is on the motion itself and must be related. Although the declaration and title report are associated with the relief being requested, they are peripheral and the notice of hearing should not be linked to these documents. Doing so clutters the docket and places these events on the court's internal calendar in addition to the motion.

33. Movant files a **Certificate of Service** stating that each of the documents above have been served.

Related Documents: [30] **Motion to Approve Sale** (w/ Memorandum and Declaration), [31] **Declaration of I.M. Lawyer** (w/ Title Report), [32] **Notice of Hearing**. The certificate of service directly pertains to each document that was served and all should be related.

34. A creditor's attorney ("respondent") files an **Opposition** to the motion to approve sale.

Related Documents: [30] **Motion to Approve Sale**. The opposition directly pertains to the motion. Including the peripheral documents - the declaration, the notice of hearing, and the certificate of service - is unnecessary and clutters the docket.

35. Respondent subsequently files a **Declaration of I.B. Attorney** with a competing **Title Report** attached.

Related Documents: [34] **Opposition**, [30] **Motion to Approve Sale**. The declaration directly relates to the opposition. It is also critical that the underlying motion or application is related. (An objection to claim and an objection to exemption are treated like motions and would also need to be related if it were the initial document in the chain of events.)

36. Respondent files a **Certificate of Service** showing that both the opposition and the respondent's declaration were served on the movant and other parties.

Related Documents: **[34] Opposition, [35] Declaration of I.B. Attorney** (w/ title report), **[30] Motion to Approve Sale**. The certificate of service directly pertains to the documents served; the initial motion must always be included.

37. Movant files a **Reply** to the opposition.

Related Documents: **[34] Opposition, [30] Motion to Approve Sale**. The reply memorandum directly relates to the opposition. The underlying motion must be included. The various declarations, notice of hearing, and certificates of service are peripheral items and should not be referenced. Doing so clutters the docket.

38. Movant files a **Certificate of Service** for the reply memorandum.

Related Documents: **[37] Reply, [30] Motion to Approve Sale**. The certificate directly relates to the document served. The underlying motion must also be included.

The above docketing events are shown in the docket below.

Filing Date	#	Docket Text
10/05/2003	30	Motion to Approve Sale - Real Property at 1 Ocean Drive, Honolulu, Hawaii, Filed by Debtor Jane Doe (Attachments: # 1 Memorandum in Support of Motion # 2 Declaration of I.M. Lawyer in Support of Motion) (Lawyer, I.M.) (Entered: 10/05/2003)
10/05/2003	31	Declaration of I.M. Lawyer (related document(s): 30 Motion to Approve Sale - Real Property at 1 Ocean Drive, Honolulu, Hawaii). (Attachments: # 1 Title Report) (Lawyer, I.M.) (Entered: 10/05/2003)
10/05/2003	32	Notice of Hearing, Filed by Debtor Jane Doe. Hearing scheduled for 11/5/2003 at 09:30 AM Courtroom, 1132 Bishop Street, Suite 250L, Honolulu, HI 96813 (related document(s) 30 Motion to Approve Sale). (Lawyer, I.M.) (Entered: 10/05/2003)
10/05/2003	33	Certificate of Service Filed by Debtor Jane Doe (related document(s): 30 Motion to Approve Sale, 31 Declaration, 32 Notice of Hearing). (Lawyer, I.M.) (Entered: 10/05/2003)
10/05/2003	34	Opposition to 30 Motion to Approve Sale filed by Debtor Jane Doe, Filed by Creditor XYZ Loan Co. (Attorney, I.B.) (Entered: 10/05/2003)
10/05/2003	35	Declaration of I.B. Attorney in Support of Opposition to Debtor's Motion to Approve Sale. Filed by Creditor XYZ Loan Co. (related document(s): 34 Opposition, 30 Motion to Approve Sale). (Attachments: # 1 Title Report) (Attorney, I.B.) (Entered: 10/05/2003)
10/05/2003	36	Certificate of Service Filed by Creditor XYZ Loan Co. (related document(s): 34 Opposition, 30 Motion to Approve Sale, 35 Declaration). (Attorney, I.B.) (Entered: 10/05/2003)
10/05/2003	37	Reply to 34 Opposition, 30 Motion to Approve Sale, Filed by Debtor Jane Doe. (Lawyer, I.M.) (Entered: 10/05/2003)
10/05/2003	38	Certificate of Service Filed by Debtor Alfred Molina (related document(s): 37 Reply, 30 Motion to Approve Sale). (Lawyer, I.M.) (Entered: 10/05/2003)