

Welcome to CM/ECF

In March 2001, the Administrative Office of the United States Courts began a nationwide replacement of existing court docketing systems with the Case Management / Electronic Case Files (CM/ECF) Project. Conversion to CM/ECF is now underway in more than 100 federal courts around the country. CM/ECF is operational in over 40 bankruptcy courts. More than 4 million cases with more than 14 million documents are on CM/ECF systems, and more than 20,000 attorneys and others have filed documents over the Internet.

The United States Bankruptcy Court for the District of Hawaii anticipates implementation of CM/ECF during Spring 2003. Court staff will start using CM/ECF for general docketing and case administration in the first phase. Shortly thereafter, trained and registered attorneys will be able to file documents electronically via the Internet, 24 hours a day, 7 days a week. Eventually, the court may allow certain non-attorneys, such as large claims filing businesses, to have access to CM/ECF for filing and transferring claims and other documents which are often filed in volume.

Although CM/ECF is not yet operational, the court encourages attorneys and paralegal staff to plan ahead for electronic filing by assessing existing hardware and software, Internet access, use of a credit card to pay filing fees and changes in office work flow. The court will assist in the transition to electronic filing by providing classroom and online training to attorneys and their staff, and by providing information at the court's web site. [Tutorials](#) are available at our [CM/ECF web page](#) which allow the future user to become familiar with electronic filing procedures. The web page also addresses many [FAQs](#), a few of which are summarized below.

CM/ECF - How does it work? Attorneys practicing in courts offering the electronic filing capability are able to file documents directly with the court over the Internet. The CM/ECF system uses standard computer hardware, an Internet connection and a browser, and accepts documents in Portable Document Format (PDF). The system is easy



to use. Filers prepare a document using conventional word processing software, then save it as a PDF file. After logging onto the court's web site with a court-issued password, the filer enters basic information relating to the case and document being filed, attaches the document, and submits it to the court. A notice verifying court receipt of the filing is generated automatically. Other parties in the case then automatically receive e-mail notification of the filing.

Do I need to upgrade my computer system? Most attorneys will have the basic setup required: an Apple computer or PC running Windows, with word processing software such as Word or WordPerfect that can save files in PDF, and an Internet browser. Most important may be a sufficient amount of memory (at least 256K) and a fast Internet connection (DSL or cable modem). Access the web page for more details on [hardware/software issues](#).

Are there any fees or charges? There is no fee to register as an ECF user for filing a document electronically. Although the filing fees required for a bankruptcy petition and certain types of motions and other documents must still be paid, there is no extra fee to file a document electronically. PACER fees for viewing online documents also will continue to be assessed just as they have been using WebRacer: \$.07 per page but not more than \$2.10 per document. However, when a document is filed using CM/ECF, the filer and other parties who are registered ECF users will receive via email and without charge a copy of the electronically filed document.

How will fees be paid? Payment using a credit card is required. On January 23, 2003, the Director of the Administrative Office announced final approval of the Internet Credit Card Payment module of CM/ECF Version 2.1. This system has undergone thorough testing in other courts and allows direct payment of filing fees to the U.S. Treasury using major credit cards.

What is the significance of CM/ECF Version 2.1? Many of you attended demonstrations of CM/ECF Version 1 in July and August, 2002. Although quite a few courts have been going “live” with Version 1 of the application, this court saw a significant advantage in waiting for the upgraded Version 2.0 released in September, 2002, and the most recent upgrade made available in mid-December, 2002. This has delayed our implementation of CM/ECF, but we think that the additional features make the delay worthwhile.

How do I sign electronic documents? After becoming a registered ECF user, the court will issue a login and password. Use of the login and password is deemed to be the user’s signature for all purposes, including those under Fed. R. Bankr. P. 9011. In the document itself, the signature line should show “/s/” and the filer’s name, e.g. “/s/ Jane Doe.” When a petition and schedules are filed, a debtor must sign a “Declaration re: Electronic Filing” - an original paper copy of this signed declaration must be submitted to the court within 5 business days.

Will electronic filing be mandatory? No, not at this time. However, the court anticipates that many of you will see the benefits of registering as an ECF user.

Where may I find out more about CM/ECF? More information is posted at the [court’s web site](#). In addition, you should check other courts’ web sites - just remember that a court’s address is the 2-letter state code (like “hi” for Hawaii) plus, if any, the initial for geographical district within the state (“n” = Northern, etc.), and “b” for bankruptcy court and “d” for district court. Thus, “casb” stands for the Bankruptcy Court for the Southern District of California, and you can find CM/ECF information for that court by visiting: www.casb.uscourts.gov.

Mailing matrix on diskette. Regardless of whether a petition is filed electronically, the court soon will require attorneys to submit the mailing matrix as an ASCII file in .txt format on computer diskette. All word processing and petition software packages should be able to save names and addresses in such a file. More information from the court will be available shortly.

Other Notes

Bench - Bar Meeting. An event which should be of great interest to all bankruptcy practitioners is a session with Bankruptcy Judge Robert J. Faris. There will be practice and procedure pointers as well as answers to your questions. Look for an upcoming announcement from the HSBA Bankruptcy Law Section.

BDR. Remember that volunteer mediators are available for contested matters as well as adversary proceedings. Note also that the amended local rules mandate a discussion of the court’s mediation program at the conference (formerly, meeting) of the parties held under LR 26.1. The local rule also requires specific language in the report on the conference of the parties under “Other Matters”: “The parties have discussed alternative dispute resolution options, including, without limitation, the option of participation in the court’s mediation program. The [parties] [plaintiff] [defendant] are prepared to consider this matter further and discuss options at the Scheduling Conference.”

Judge’s Decisions. Certain decisions of the Bankruptcy Court for the District of Hawaii have been selected for posting at the court’s web site under “Judge’s Decisions” for informational purposes only. They are not published opinions and are not binding precedent.

Recent 9th Circuit Cases

In re Jan Weilert RV, Inc., __ F.3d __, 2003 WL 102999 (9th Cir. 2003) (avoidable preferences under § 547). In re Sylmar Plaza, L.P., __ F.3d __, 2002 WL 31887700 (9th Cir. 2002) (good faith in chapter 11 plan with sole purpose to avoid liability on default interest rate). In re Cady, __ F.3d __, 2002 WL 31926264 (9th Cir. 2002) (whether relief from stay required to enforce nondischargeable judgment). In re Zimmer, 313 F.3d 1220 (9th Cir. 2002) (“lien-stripping” under § 1322(b)(2)). In re Garske, __ B.R. __, 2002 WL 31922081 (B.A.P. 9th Cir. 2002) (whether telephone collection calls violate discharge injunction). In re Profit, 283 B.R. 567 (B.A.P. 9th Cir. 2002) (modification of chapter 13 plan beyond 60 months).

f

CourtNotes. This is the first issue of an email newsletter 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, or if you have any comments or questions, please feel free to contact Mark Van Allsburg, Clerk of Court, at mark@hib.uscourts.gov or Michael Dowling at michael.dowling@hib.uscourts.gov.