

## Electronic Filing Survival Guide

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**T**he once-bustling public intake counters at our nation's bankruptcy courts are rapidly becoming relics. The sounds of the file stampers, copy machines and the rustling of paper are being replaced by the clicking of keyboards. The public intake counters are being replaced by the virtual intake counters on the Internet. For better or worse, electronic filing has become the norm for the majority of bankruptcy courts and will soon be the norm for all federal courts.

Nearly 70 percent of the bankruptcy courts are now accepting electronic filings. Electronic filing was made possible through the nationwide implementation of the federal courts' new Case Management/ Electronic Case Files (CM/ECF) systems. Although some courts may choose not to offer electronic filing on their CM/ECF systems, it is clear that most bankruptcy courts favor electronic filing. It is probable that more than 90 percent of the bankruptcy courts will offer electronic filing by the end of 2005. A growing number of courts are requiring attorneys to default to electronic filing unless granted exemptions by the court.

Clerks' offices across the country have retooled their operations to support the bar in its conversion to electronic files. All courts offer either classroom-style training, computer-based training or a combination of both to prepare attorneys for electronic filing. Many court web sites have special pages devoted to electronic filing with local electronic filing administrative procedures and training manuals. A few courts have gone as far as forming user groups and posting frequently asked questions on their web sites. Survival in this new electronic world is not much different than survival in the paper world. The first rule is to get to know your local clerk's office. Clerks of court and their deputies will, as they always have, be your best source of information on how to get something filed.

In my research for this article, I found three court web site sites that are particularly helpful to the electronic filing attorney. The first stop on the electronic filing superhighway should always be the PACER Service Center ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)). The PACER Service Center web site offers computer-based training, an excellent frequently asked questions page, and several manuals including "Creating PDF Documents" and "Managing E-mail." In addition, you can read the latest news about electronic filing and get a complete listing of court web sites.

Learning to manage e-mail is the single most important skill attorneys will need to master to survive in the virtual courthouse. E-mail must be managed in the same way you manage paper mail. Someone needs to sort and route mail to the correct recipients in the firm. Rules can be set up in your e-mail program to do the same function the mail clerk performs. Each e-mail you receive from the court will have a subject line describing the contents. For example, you can tell your e-mail program to send all §341 meeting notices to your §341 meeting clerk. Hearing notices can be routed to your paralegal in charge of your schedule. The "Managing E-mail" manual mentioned above will walk you through the process of setting up rules and help you effectively deal with ECF e-mail.

Two excellent examples of what many courts are doing to help electronic filers can be found at the web sites for the bankruptcy courts in the District of South Carolina ([www.scb.uscourts.gov](http://www.scb.uscourts.gov)) and the District of Alaska ([www.akb.uscourts.gov](http://www.akb.uscourts.gov)). Each of these sites have a page titled "CM/ECF Tips and Tricks." These sites will help you with everything from troubleshooting printer problems with PDF files to setting up your browser for optimal performance. In addition to posting information on web sites, most courts also offer help desks, both telephonically and via e-mail, to assist attorneys with their filings. Common issues court

web sites and help desks address include duplicate notices, Internet fee payments, PDF software configurations and file size, and PACER vs. CM/ECF access.

Many electronic filers complain of receiving multiple e-mail notices and paper notices issued for the same event. Although electronic filing attorneys serve parties through the courts' CM/ECF systems, clerks' offices are required to either serve paper notices, usually through the Bankruptcy Noticing Center (BNC), or electronic notices through the BNC's Electronic Bankruptcy Noticing Service. Bankruptcy Rule 9036 requires electronic confirmation (return receipt) of all e-mail notices sent by the clerk. Although CM/ECF automatically sends notification of electronic filing to parties, it does not provide the clerk with a confirmation of service. However, notices served electronically by the Bankruptcy Noticing Center (BNC) do comply with Bankruptcy Rule 9036. A proposed amendment to Rule 9036 that would eliminate the electronic confirmation provision is pending in the Rules Committee of the Judicial Conference. If adopted, clerks' offices will be able to use CM/ECF service for electronic users.

Paying filing fees through the Internet (e-commerce) can be particularly daunting for the novice electronic filer. A growing number of courts are now accepting filing fees over the Internet. Most, if not all, electronic filing courts will soon offer e-commerce to their users. However, paying fees via the Internet requires users to disable pop-up window blockers. When paying over the Internet, some users have received "invalid credit card" error messages. The fault is in the browser. Court web sites or the browser web site, *e.g.*, Microsoft Explorer or Netscape, will recommend patches to solve the problem.

The backbone of the CM/ECF systems that enables electronic filing is the PDF (portable documents format) attachment. Users need to think of PDF documents as electronic paper. Problems with PDF software can occur when new versions are released by the manufacturer. Users need to configure their new software version for backward compatibility with earlier versions. Scanning or imaging documents into PDF files is necessary when attachments or exhibits do not exist in electronic form. However, most courts limit the size of scanned documents to 4.0 megabytes. You should be able to submit up to 70 pages if you set your scanner to black and white, resolution to 200 dpi and paper size to 8 1/2" x 11". Some courts will allow the omission of pictures to reduce the size of documents. If your documents still exceed the limit, you will need to submit attachments in sections. Be sure to check with your local court for scanning requirements.

It is important for CM/ECF filing attorneys to remember that PACER and CM/ECF are two separate systems. CM/ECF is supported by each local court unit. PACER is supported by the national PACER Service Center. Attorneys attempting to access other documents while filing in CM/ECF will get a second "PACER" login screen. This is not an error. While CM/ECF is a free service, PACER is a fee-driven service. You can, however, make your PACER login your default to avoid having to login repeatedly.

The courts' CM/ECF systems are user-friendly. You do not need to hire expensive automation professionals to maintain your systems. What you do need in your offices are file management, software application and Internet skills. Most paralegal professionals with recent certifications or degrees will have the skills you need to convert to the electronic world. In addition, companies specializing in training staff in using CM/ECF-related applications are available in most districts. And don't forget that your clerk's office can and will help you as you convert to electronic filing. The trick to surviving in the electronic filing world is to take advantage of the services offered by your local clerk's office and the Administrative Office of the U.S. Courts.