

GUIDE FOR FILING IN THE DISTRICT OF MONTANA



UNITED STATES BANKRUPTCY COURT DISTRICT OF MONTANA

Note: While this document references many Local Rules, it is not intended to substitute the Local Rules. Parties filing in the District of Montana should be familiar with both the Local Rules and this manual.

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Contents

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1. Acronyms in the CM/ECF System:

CM - Case Management

ECF - Electronic Case

Filing

PDF - Portable Document Format

NEF - Notice of Electronic Filing

BNC - Bankruptcy Noticing
Center

2. CM/ECF Main Menu

a. Bankruptcy → Adversary → Query → Reports → Utilities → Search
→ Logout

i. Bankruptcy menu - events for all pleading related to main
case filings.

ii. Adversary menu - events for all pleading related to adversary
case filings.

iii. If you cannot find an event pertaining to your pleading under
the Adversary menu, you may chose an event under the
Bankruptcy menu making sure you type in the adversary
number, not the main case number.

iv. Query - all

3. Technical Specifications for E-filing

a. Minimum requirements

i. Computer.

ii. Word Processing software with the ability to convert

documents to PDF format.

- iii. High-speed Internet access, or an Internet dial-up line with a minimum of 56K. DSL or cable is preferred for better access speed.

- (1) CM/ECF may “time out” during the filing process if you’re filing extremely large documents and your internet access is not fast enough.

b. Scanning Specifications

- i. Scanned documents: The scanner should be configured no finer than 300 dpi (dots per inch) and black and white rather than color scanning for imaging non-computerized documents.
- ii. Scanned documents must be saved in PDF/A format.
- iii. If for any reason a document cannot be easily viewed after scanning and e-filing, the filing party will be instructed to re-scan and e-file the document. If the issue cannot be resolved by re-scanning, the party will be asked to file the document nonelectronically within a specified period of time
- iii. Documents larger than 100 megabytes must be split up into 100 megabyte segments and e-filed as attachments, properly naming each attachment.

c. Web Browser

- i. CM/ECF has been tested and works with any version of Firefox and Internet Explorer 8 and 9 only.

4. Access to Electronic Records

a. Public access at the Clerk's Office

- i. Access to the electronic record is available for all parties and the public at each divisional office of the bankruptcy court during regular business hours.
- ii. A copy fee for an electronic reproduction is required.
 - (1) Certified copies may also be purchased.
 - (a) See the Court's website www.mtb.uscourts.gov for fee schedule.

b. Internet Access

- i. CM/ECF user access:
 - (1) Only registered users may e-file in CM/ECF.
 - (2) Registered users who are parties to a case will receive e-mail notification of a filing and the e-filed document in their e-mail accounts. The e-mail notification is referred to as an NEF.
 - (3) Parties are encouraged to view and/or download filings at the time of the notification to avoid future PACER fees.
 - (4) A party to a case who remotely accesses a document after the initial notification of filing will be charged the applicable access fee.
- ii. PACER access
 - (1) Remote access to view the electronic record is limited to subscribers to the PACER system.

- (2) Please see the PACER website at www.pacer.gov for details on access fees.

5. Availability

- a. CM/ECF is designed to provide service 24 hours per day, seven days per week.
- b. Nonelectronic filing: The Clerk's Office is open for nonelectronic filing Monday through Friday, 8 a.m. to 5 p.m., except federal holidays.
- c. Help Desk: The help desk is available Monday through Friday, excluding legal holidays, from 8:00 a.m. to 5:00 p.m. Parties are encouraged to e-file during those hours in the event assistance is needed.

6. Electronic Filing Generally

- a. Authorization (BK Rules 5005-1)
 - i. To the greatest extent possible, the record of each case, including exhibits, will be maintained in ECF and available to remote public access.
 - ii. Local Bankruptcy Rule 5005-1 directs all attorneys and self-represented litigants to follow the guidance of the clerk's office to facilitate electronic filing and to make the record legible and complete. This Administrative Procedures Manual is designed to provide such guidance.
 - iii. With a few exceptions, all documents filed after August 19, 2002, are available electronically.

b. Definitions

i. Administrative Procedures Manual

- (1) Procedures and instructions for using the Court's filing system, can be found on the Court's website, www.mtb.uscourts.gov.

ii. CM/ECF

- (1) CM: Case Management portion of the electronic filing system used by the clerk's office to maintain the electronic record.
- (2) ECF: Electronic Case Files refers to the Court's electronic filing system and the cases maintained therein.

iii. ECF User or Registered User

- (1) A person who is registered to e-file in the electronic case files.

iv. Electronic Filing

- (1) Uploading a document directly from the registered user's computer to the Court's CM/ECF system.

v. Nonelectronic Filing

- (1) Hard copy documents or other items that are submitted to the clerk's office for filing because
 - (a) The filer is a nonelectronic filer; or
 - (b) The document or item is unable to be scanned and filed electronically.

vi. Document

- (1) Includes pleadings, motions, exhibits, declarations, affidavits, memoranda, claims, papers, orders, notices, and any other filing by or to the Court.
- (2) Personal identifiers:
 - (a) Social Security Numbers redacted to the last four numbers: xxx-xx-5271.
 - (b) Tax-Payer Identification Numbers redacted to last four numbers: xx-xxxx4578.
 - (c) Names of minor children redacted to initials only.
 - (d) Dates of birth redacted to the year only: xx/xx/2001.
 - (e) Financial account numbers redacted to the last four digits of the account numbers: xxxxxxxxxxxxxxxxxxxx3567.
 - (f) Personal address redacted to the city and state in criminal cases only.

vii. Internet Service Provider or ISP

- (1) Refers to the entity/company registered users use to connect to the internet.

viii. Notice of Electronic Filing or NEF

- (1) Generated automatically by the ECF system upon completion of an electronic filing. The judge and all electronic users in the case will immediately receive the NEF at their e-mail address.
- (2) The NEF will appear in your e-mail in-box from sender MT_CMECF and the subject line will be "Activity in Case"

followed by the case number and case name, e.g., Activity in Case 15-60001, Jones v. James. Do not delete these e-mails without reviewing them first.

- (3) If an NEF is received, single click on the document number to download it. If you double click on the document number, PACER will not allow free access.

ix. Portable Document Format or PDF

- (1) Allows anyone to open the converted document across a broad range of hardware and software, with layout, format, links, and images intact. CM/ECF will only accept PDF and PDF/A documents.
- (2) PDF/A is a standard document format that allows for the long-term archiving of electronic documents, assuring that documents will be accessible in the future.
- (3) When using a fillable PDF, be sure to flatten the file by printing the document to PDF, rather than saving the file, before e-filing the document. This ensures that the document cannot be edited when downloaded. This process will also decrease the file size significantly.
- (4) Please call the CM/ECF Help Desk at 406-497-1240 for assistance with flattening a file.

x. System

- (1) Used to reference the Case Management Electronic Case Files (CM/ECF) system adopted and implemented by the District Court.

c. Case Numbers

- i. When querying a case number within CM/ECF, you need only enter the year and the case number, i.e., 15-60001 (bk case) or 15-1 (adv. case), then select the appropriate case from the available list.
 - ii. Documents must include the entire case number, i.e., Case No. 15-60001-RBK; Adv. No. 15-00001-RBK. In an adversary proceeding, the caption must include both the adversary and bankruptcy case numbers.
- d. E-filing Documents
 - i. All documents must be e-filed using the appropriate event within CM/ECF.
 - ii. When given the option, the filer may add limited text to a docket entry to supplement the title of the document.
- e. Filing Fees
 - i. Credit card
 - (1) Electronic users may pay online by credit card when filing electronically.
 - (2) Credit card numbers are not maintained by the Clerk's Office.
 - ii. Cashier's Check
 - iii. Money Order
 - iv. Cash (**Exact amount only. No cash/change is kept in the clerk's office.**)
- f. Registration
 - i. PACER (Public Access to Court Electronic Records)
 - (1) In order to view and query documents, reports, etc., you must

use your PACER login and password.

- (2) PACER is regulated in Washington, DC. The District of Montana does not maintain PACER logins and passwords.
- (3) To register with PACER, a user must complete the online form or submit a registration form, available on the PACER website: <http://pacer.psc.uscourts.gov>.

ii. NextGen CM/ECF District of Montana User Registration

- (1) In order to e-file documents, you must use your PACER login and password.
- (2) After an attorney completes the online Bankruptcy CM/ECF training requirements, the attorney may register to efile by obtaining an individual PACER account at:
<https://pacer.psc.uscourts.gov/pscof/regWizard.jsfobtaining>.
The attorney may then follow the instructions to register for filing electronically in the District of Montana:
<https://www.mtb.uscourts.gov/sites/mtb/files/Request%20Access-%20Attorney.pdf>
- (3) The training requirement will be waived for attorneys who have received training in another district or bankruptcy court. Such attorneys and their support staff are encouraged to review the District of Montana's training materials available on the Court's website at: <http://www.mtb.uscourts.gov/cmecf>
- (4) Once an attorney completes the training and becomes a registered user of electronic filing, he/she waives the right to receive service of documents filed in the electronic record by any other means other than electronic.
- (5) NOTE: Support staff delegated by the registered attorney to e-file on his or her behalf, or to receive NEFs, are encouraged to complete the online training modules so that they are familiar with the procedures regarding electronic filing as well as the

procedures for viewing documents.

- (6) Registered users are required to maintain an electronic mailbox sufficient to receive orders and other documents transmitted electronically.
 - (a) Registered users are responsible for maintaining a working e-mail address and maintaining their current e-mail address within CM/ECF. See Maintain Your ECF Account located on the Court's website for instructions to change your e-mail.
https://www.pacer.gov/ecfcbt/bk3/Maintain_Your_ECF_Account/Maintain_Your_ECF_Account.htm
 - (b) Secondary e-mail addresses added to your CM/ECF account will receive notification in all cases unless you remove selected cases. See Maintain Your ECF Account located on the Court's website for instructions to add a secondary e-mail address.
https://www.pacer.gov/ecfcbt/bk3/Maintain_Your_ECF_Account/Maintain_Your_ECF_Account.htm
 - (c) Registered users MUST update their mailing address in the PACER database. The court is not responsible for notifying a person who filed the paper with the court's electronic-filing system that an attempted transmission by the court's system failed.

g. Nonelectronic Service

- i. Service by means other than CM/ECF
- ii. Nonelectronic service is required when:
 - (1) Pursuant to LBR 7004(b)(9) and 9014(b), F.R.B.P., all motions directed to a debtor, in addition to being served upon counsel

for the debtor, must be served upon the debtor by mailing a copy of the motion “to the debtor at the address shown in the petition or to such other address as the debtor may designate in a filed writing”.

- (a) Service can be accomplished by First Class Mail, serving the debtor AND his or her counsel.
- (b) Proof of service upon the debtor is required.

- (2) Nonelectronic service of the defendant is required in adversary proceedings pursuant to LBR 7004(b), and if a defendant/debtor is represented by an attorney, the attorney is to be served as well pursuant to LBR 7004(g). Per LBR 9014(b), if the matter is contested, the motion is to be served in the matter provided in LBR 7004.

h. Correction of Filing or Docketing Errors

- i. If filing errors are discovered in a case, corrective entries will be docketed in the case.
- ii. If errors are discovered, immediately call the Help Desk for assistance 1-406-497-1240.

i. Court’s Technical Failures

- i. A filing party whose e-filing is made untimely as a result of a technical failure of the bankruptcy court’s CM/ECF site may contact the clerk’s office for further instruction.
- ii. System outages will be posted on the website if possible.

j. User’s Technical Failures

- i. Problems on the e-filer’s end, such as phone line problems, problems with the e-filer’s internet service provider, or hardware or software

problems, will not excuse untimely filing.

- ii. Parties must contact the Help Desk (1-406-497-1240) to obtain permission to send a document by e-mail OR file the document nonelectronically at the Clerk's Office.
- k. Help Desk
- i. Call the Help Desk for assistance 1-406-497-1240.
 - (1) The Help Desk is available from 8:00 a.m. to 5:00 pm., Monday through Friday, excluding Federal holidays.
- l. Computing Time (F.R.B.P 9006-1)
- i. Count every day, including intermediate Saturdays, Sundays, and all legal holidays.
 - ii. The three day rule for service by mail applies to service by electronic means when a party must act within a specified time after **service**. However, the three day rule does not apply when a party must act within a specified time after **filing**.
- m. Orders
- i. Proposed orders are to be emailed in Word or Word Perfect format to the court at pal@mtb.uscourts.gov.
 - (a) Proposed orders are to contain the debtor(s) name, case number and docket number in the subject line.
 - (b) Proposed Orders should be submitted **WITHOUT** the following language:

: BY THE COURT:

Hon. (Name of Judge)
United States Bankruptcy Court
District of Montana

(c) The above referenced e-mail address is not to be used to communicate with the Court unless otherwise permitted or when communications are solicited.

7. Transcripts & Audio Files

a. Transcripts of Proceedings

i. Ordering a transcript of a court-reported proceeding can be done by e- filing your Transcript Order Form (available on the Court's website at <http://www.mtb.uscourts.gov/transcripts> using the following events:

(1) Bankruptcy Events → Other → Request for Transcript.

(2) Bankruptcy Events → Appeal → Transcript Ordered Re: Notice of Appeal

ii. The Transcript Designation and Ordering Form must be served on the Court Reporter.

iii. To order audio CDs of recorded proceedings, complete the FTR Gold Recording and Ordering Form (also available on the Court's website).

iv. The Transcript Designation and Ordering Form must be filed nonelectronically if the requesting party is not an attorney of record in the case.

v. A transcript is an official record only if it is certified by a reporter or transcriber and filed separately by the clerk's office.

vi. Redaction of Personal Identifiers from Transcripts of Proceedings

(1) E-Government Act of 2002, F.R.Civ.P.5.2

i. Parties shall redact personal data identifiers from all documents filed with the Court, including exhibits thereto, whether the document is made available electronically or only in paper, unless otherwise ordered by the Court.

(2) Personal identifiers:

(a) Social Security Numbers redacted to the last four numbers: xxx-xx-5271.

(b) Tax-Payer Identification Numbers redacted to last four numbers: xx-xxxx4578.

(c) Names of minor children redacted to initials only.

(d) Dates of birth redacted to the year only: xx/xx/2001.

(e) Financial account numbers redacted to the last four digits of the account numbers: xxxxxxxxxxxxxxxxxxxx3567.

(f) Personal address redacted to the city and state in criminal cases only.

ii. The responsibility for redacting these personal identifiers rests solely with counsel and the parties. Personnel in the clerk's office will not review each document for compliance with this rule.

8. Motions (LBR 1017-1)

a) Multiple Motions

- i. If you are filing two or more motions in one document, i.e. Motion to Convert or in the Alternative Motion to Dismiss, you must file the motion multiple times by selecting each motion event separately.
- b) Motion to Appear Pro Hac Vice (LBR 2090-1(c))
- i. You must file one pro hac vice motion for each attorney requesting leave of court to proceed pro hac vice. CM/ECF will only allow one filing fee of \$250 per motion.
 - ii. If the Court grants permission to appear pro hac vice, the attorney must immediately request access to become a registered user in the District of Montana.
 - iii. See the Registration section of this manual for information regarding registering with the District of Montana.

9. Briefs (LBR 9013-2)

- a) Support Brief
 - i. A motion, objection or response to objection must be accompanied by a supporting brief/memorandum of law.
 - ii. The support brief may be filed separately and linked back to the related document or as part of the motion, objection or response to objection.
 - iii. Parties are encouraged to file response and reply briefs as separate documents. Use the events under the **Other** category.
 - iv. All objections must be set for hearing within the

docket event. Hearing dates may be obtained by reviewing the available hearing dates on the court's website at: <http://www.mtb.uscourts.gov/calendar-hearing-341-dates>.

- b) Link all briefs and any separately filed supporting documents to the relevant motion so that all materials pertinent to the motion appear on the judge's CM Motions Report.
- c) Time for Filing (LBR 9013-2) and F.R.B.P. 9006).
 - i. The time for filing response and reply briefs is calculated in multiples of seven. All weekends and holidays are counted.
 - ii. Three days will no longer be added to the time for filing response and reply briefs.
 - iii. Refer to LBR 9013-2 for other briefing requirements including, but not limited to, length of briefs.

10. Exhibits and Attachments (LBR 5003-2)

- a) Exhibits e-filed as attachments to documents must be identified so as to allow the Court, the parties and the public easy access to a specific exhibit. Use a short descriptive name when prompted for a description, for example: Range Rover Vehicle Registration or, alternatively, Exhibit A - Range Rover Vehicle Registration.
 - i. Entities filing exhibits not prepared in electronically produced text shall scan and electronically file only excerpts of the documents that are directly germane to the matter under consideration by the Court.
 - ii. Filing attachments by other than electronic means is not encouraged but may be permitted at the discretion of the Court.

11. Filing a New Petition (LBR 1002-1) – Initial Requirements

- a) Voluntary petitions
 - i. Official bankruptcy forms may be found by visiting the court's website at: <http://www.mtb.uscourts.gov/forms>.
 - ii. Every petition filed on behalf of a party represented by an attorney must be signed by "at least one attorney of record in the attorney's individual name." Fed. R. Bankr. P. 9011(a).
- b) Filing Fee
 - i. If paying filing fee in full, a money order or cashier's check are required. No personal checks are accepted.
 - ii. If paying filing fee in installments, an Application to Pay Filing Fees in Installments is required. (FORM B103A). Counsel for the debtor(s) may pay installment payments electronically through the CM/ECF database with the attorney's credit card if they so choose.
 - iii. If the debtor wishes for the court to consider waiving the filing fee, an Application for Waiver of Filing Fee is required. (FORM B103B)
- c) Social Security FORM B121 is required. This form shall be filed separately in CM/ECF. The use of the "Social Security Statement" event will seal this information. This event is located under Bankruptcy Events → Other.
- d) Mailing Matrix – due 48 hours from the filing of the petition.

e) Within 14 days from filing of petition, the following documents are to be filed with the court: Schedules A-J, Summary of Schedules, Declaration of Individual Debtor's schedules, Statement of Intention, Statement of Financial Affairs, Statement of Current Monthly Income, Certificate of Credit Counseling Employee Income Records, Declaration 521c, Domestic Support Obligation, Chapter 13 Plan (if a Chapter 13 Petition filed.)

12. Signing of Pleadings, Motions and Other Papers (LBR 9011-1)

- a) Electronic Signature Format.
 - i. Each document filed electronically by a registered user may be signed with a hand-written signature or in the following electronic signature format: /s/ John E. Attorney.
 - ii. Bankruptcy petition preparers providing services to debtors filing documents before the Court shall provide the name and physical address of an authorized agent for service of process, and shall provide a physical street address for their business.
 - iii. Your login and password serve as a signature for purposes of F.R.B.P 8011. Therefore, the signature on the document must match the login and password.