

# THE SPAYD



## News from the Bankruptcy Front

USBC for the  
District of Columbia

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### *WE HEAR YOU!: Summary of the Clerk's Office's ECF Survey and Subsequent Actions Underway*

#### **Background**

In October and November of 2008 the Bankruptcy section of the Clerk's Office invited 897 attorneys to respond to a survey on the District of Columbia's Electronic Case Filing (ECF) system. The purpose of the survey was to ascertain how successful we are in implementing the Clerk's Office's mission statement - *assist in the administration of justice, ensure public confidence, provide timely and accurate information, and enhance service through the best use of technology* - as it pertains to the electronic filing pleadings in the District of Columbia. While only 78 (8.7%) attorneys responded, we were still able to obtain valuable information that has since led to procedural changes.

#### **Summary of Survey Results**

- Of the 78 respondents, the ma-

jority, 49, or 62.8%, "agree" with the statement that you *"can get answers to [your] electronic filing questions for DC by accessing the court's website."* Four respondents said they "strongly agree." However, a significant 21.8% of respondents either "disagree" or "strongly dis-

***Thirteen respondents, 16.7%, said that they were not even "... aware there was a Help Desk."***

agree" with that statement. Surprisingly, 10.3% indicated that they "never access the website" at all.

- Similarly, 12.8% either "disagree" or "strongly disagree" with the statement that you can get answers to your electronic filing questions for D.C. by calling the Help Desk. Thirteen respondents, 16.7%, said that they were not even "... aware there was a Help Desk."
- Some respondents commented that electronic filing is difficult because CM/ECF events

are "confusing" and hold "no rhyme or reason... "

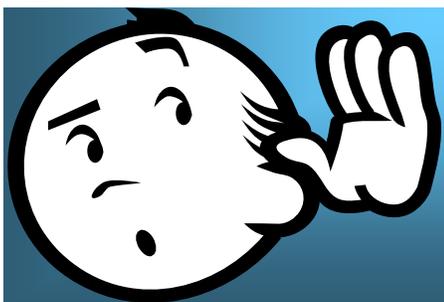
- The vast majority of respondents, 87.2%, believe that "the Filer" - - and not the Clerk's Office, Chambers, or the Trustee/US Trustee - - is "most responsible" for fixing a pleading that is "electronically filed incorrectly."
- The majority, 60.3%, answered "no" to the question, *"If an electronically filed pleading contains no errors in the document, should it matter that it was not filed properly in ECF (i.e. not using the right event; not making the correct linkage).*

#### **Summary of Subsequent Actions**

##### ***Reduce EDNs by Continuing to Correct Simple Filing Errors***

***Where and When Possible:*** Since January 2008, the Clerk's Office has sought to reduce the number of EDNs we issue. For example, we no longer issue EDNs for no or incorrect linkage/associations, and instead make these corrections ourselves. We plan to continue this approach of making corrections where and when possible.

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**Better Advertising/Promotion of Available Resources:** By the date of publication of this newsletter, the Clerk's Office will have launched its new and revised website. While the primary goal of the revised website is to provide detailed information for debtors and creditors who have no attorneys, it is the hope of the Clerk's Office that this revision will also be of great value to our electronic filing attorneys.

Also, the Clerk's Office will do a better job of advertising the resources available to the e-filing community. For example, we are in the process of designing mouse-pads with the court's web address and CM/ECF Help Desk number for distribution to attorneys.

**Answering/Returning Help Desk Calls Promptly:** We are a small staff here in the Clerk's Office, but we do our best to provide excellent customer service. As a result, one of our Clerk's Office staff has taken it upon herself to check and follow-up with messages left on the Help Desk's voice-mail within 24 hours.

**Offer More ECF Refresher Classes and On-Line Exercises:** We plan on steadily increasing ECF Training and Refresher classes. Also, we began allowing Live e-filers access to our Training database to practice e-filing what they learned in the formal training class. For a training login and password and access to our Training database, please contact the Help Desk (202-565-2506).

**Make Events in CM/ECF as Intuitive to Outsiders as Possible:** Unfortunately we cannot re-write the entire code to our electronic filing system as it is a nationally supported application that undergoes mandatory, annual upgrades. We will, however, look for ways to make minor yet helpful changes. For example, for your convenience the event "Employee Income Records" has been renamed, "Employee Income Records (Pay Advices)." Consequently, a search for the word "pay" or "advices" will successfully locate this filing event.

**Research ECF Filing Procedures That Work in Other Jurisdictions:** The Clerk's Office is currently researching ECF procedures that work in neighboring jurisdictions like Greenbelt, MD, and Alexandria, VA. Our Clerk's Office has already begun accepting the electronic signature common in Maryland (/s/ \_\_\_\_\_) (so long as there is a signature block below the line). Previously, our ECF procedures required that the filer's name be included next to the /s/ (e.g. /s/ Joe Attorney ).

Please feel free to contact the Clerk's Office, and/or review this and subsequent newsletters for additional information on revisions, resources, etc.



## **HEADS-UP:**

### **Margin at the Top of Proposed Orders Increases**

In 2003 when the Bankruptcy court went to electronic case filing, everyone was taught that proposed orders should have a 3 inch header on the first page to accommodate the Judge's signature. As technology has changed since 2003, so have the requirements for the header on proposed orders. Judge Teel now has the capability to interlineate many more comments in the heading margin of signed orders. Accordingly, please include a **4 inch** header on the first page to facilitate his comments. Although not all orders will require the increased space, those that do will be easier to read. As a consequence of not providing a 4 inch margin, an Electronic Deficiency Notice (EDN) will be issued, which, if not corrected, may result in your order not getting signed in a timely manner. **REMEMBER -- 4 INCH MARGINS PLEASE!**

# LINKED LOGINS WITH A PACER OUTAGE CAUSES FILING FAILURE



For those filers who experienced an inability to file electronically on March 19, 2009, the reason was a problem at the PACER Service Center that lasted approximately an hour and a half, 12:30 PM to 2:00 PM Eastern Time. The Centralized billing process became overloaded causing the system to respond very slowly for PACER authentication. Filers that had linked PACER and CM/ECF accounts were locked out which prevented filing in the CM/ECF system. Although this was an unexpected occurrence, it is a potential risk when the two are linked. In response to this occurrence, PACER has implemented some changes to prevent the servers from becoming overloaded in the future. The courts will be implementing changes with the next upgrade of CM/ECF later this year.

To verify that CM/ECF is inaccessible during business hours, the filing party may contact the Clerk's office at 202-565-2506. According to the Administrative Order Relating to Electronic Case Filing when there is a CM/ECF system failure and an event must be docketed immediately, the filing party may send the document as an attachment in PDF format to the following address:

[Michael\\_Wint@dcb.uscourts.gov](mailto:Michael_Wint@dcb.uscourts.gov) with a copy to

[Sally\\_Myers@dcb.uscourts.gov](mailto:Sally_Myers@dcb.uscourts.gov)

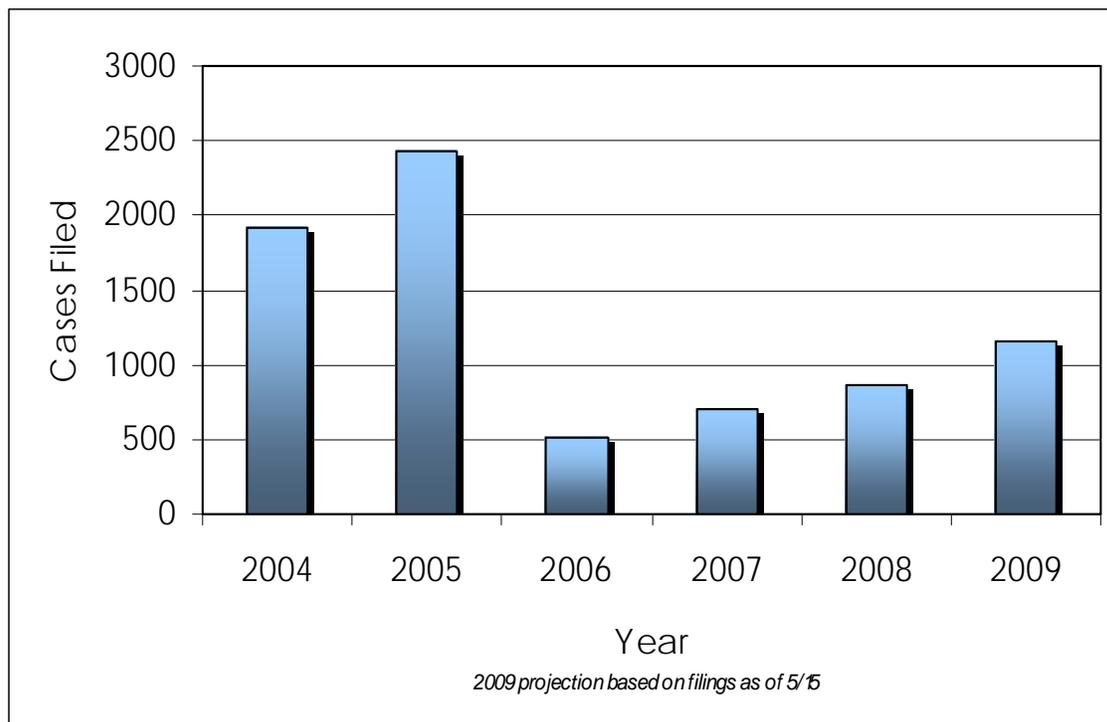
Please see the Court's "*Administrative Order Re: Electronic Filing*" Section II, Paragraph H located on the court's website under **Policies and Procedures** for further information regarding filing when there is a system failure.

# BANKRUPTCY FILINGS CONTINUE TO INCREASE

When the Bankruptcy Abuse Prevention and Consumer Protection Act was enacted in 2005, our bankruptcy filings took a major downturn, falling from 1914 cases filed in 2004 to 510 cases filed in 2006. Since then, our numbers have been steadily rising, but are not yet close to the pre-BAPCPA numbers. 2009 may be the first year since 2005 that the DC Bankruptcy Court sees over 1000 filings.

There are a number of factors that could be the reason for the rise. Attorneys and debtors are becoming more comfortable with the requirements of BAPCPA and are therefore filing more cases. Of course, there is also the worsening economy and increase in foreclosures to take into consideration.

The illustration shows that the increase in the projected 2009 numbers is not out of line with the increases in previous years, so the reason behind the increase is most likely a combination of factors.



# Chapter 11s On the Rise



Over the past few months there has been a rise in the number of Chapter 11 cases that are being filed. In 2008, there were a total of thirty-one Chapter 11 cases filed in the US Bankruptcy Court for the District of Columbia, compared to the twenty Chapter 11 cases that have been filed so far in 2009.

Below please find the filing requirements for a Chapter 11 Bankruptcy Case, please be mindful that some documents are only applicable to certain types of debtors.

## **Fee -**

\$1,039.00 – Fee must be in the exact amount. Cash or money order from pro-se filers. The Filing Fee may be paid in installments by Individual Debtors, using the form prescribed by the Court and accompanied by the proper initial payment (Note: the minimum initial payment is \$330.00)

## **Documents -**

- Voluntary Petition (Official Form 1; also, include exhibit A if a corporation)
- Statement of Current Monthly Income (Form B22B) (Individuals *Only*)
- Employee Income Record (one ex. Pay Stub), or a Statement that No Evidence of Payment Exists (Individuals only)
- Records of the Debtor's Interests in an Account or Program of the Type Specified in 11 U.S.C. Section 521(c), or a Statement that No such Interests Exists (Individuals only)
- Exhibit D – Individual Debtor's Statement of Compliance with Credit Counseling Requirement
- Certificate of Completion of Credit Counseling Course (Individuals Only)
- Statement of Social Security Number(s) (Official Form B21)
- Corporate Resolution (only if a corporation)
- Chapter 11 List of Equity Security Holders
- Chapter 11 List of Creditors Holding 20 Largest Unsecured Claims
- Schedules A-J and Summary (Note: If a schedule is not applicable, please state so on the relevant schedule; Schedules A-J should be filed with all cases.)
- Statement of Financial Affairs
- Disclosure Statement of Attorney's fees or Certification of Non-Attorney Bankruptcy Petition Preparer
- Creditor Matrix and Coversheet (format specified by and available from the Clerk's office)
- Balance Sheet (small business requirement)
- Statement of Operations (small business requirement)
- Cash Flow Statement (small business requirement)
- Federal Income Tax Return (small business requirement)

# Privacy



Section 205 of the E-Government Act of 2002 requires that all federal courts have information – e.g. written opinions, docket and court information, documents filed electronically, etc. - - available via electronic public Access. Excluded from this public access requirement are sealed matters, social security cases and immigration cases. Compliance with this requirement has been largely accomplished via CM/ECF and PACER (Public Access to Court Electronic Records). The Act further requires that the Judiciary establish rules to “protect privacy and security.”

In order to protect sensitive and private information, filers must limit certain information as follows:

- Social Security numbers and taxpayer identification numbers: use only the last four digits.
- Financial account numbers: use only the last four digits.
- Names of minor children: use only their initials.
- Dates of birth: use only year.
- *(Criminal cases only) Home address: use only city and state.*

Please be mindful that if the above referenced information is elicited during a court proceeding that it will become part of the court record. If it becomes part of a transcript, attorneys will be responsible for requesting redaction prior to the transcript’s availability electronically via PACER.

# Please

# ATTENTION ALL CM-ECF USERS!



As of December 2008, the Clerk's Office for the U.S. District and Bankruptcy Courts is no longer monitoring bounced back e-mails.

**Why:** Following up on bounced back e-mails has become a time-consuming burden on the Clerk's Office. As such, the Clerk's Office has joined the opinion of other courts that it is the responsibility of counsel to monitor their dockets rather than to depend on electronic notices of filings.

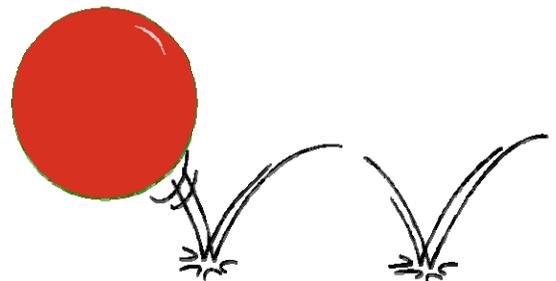
**What that means:** If you fail to update your email address and an ECF e-mail is returned as undeliverable, it is not the responsibility of the Clerk's Office to contact the attorney's office.

**What you should do:** Make sure your e-mail address is kept current in your ECF account by updating it if you move to a new office or change e-mail providers.

## **How to change your e-mail address in ECF:**

- ▶ Click on Utilities, then Maintain Your ECF Account, then E-mail Information.
- ▶ After you have changed the e-mail address and clicked "Return to Account screen", you must change something on the account screen to make the changes "stick". An example of a simple change is to add or delete USA from the Country field.
- ▶ Then click Submit to complete the process!

For more information, please read the important notice at:  
<http://www.dcd.uscourts.gov/Notice-BouncedBackEmails.pdf>



**Can't  
Find  
It?  
"Search"  
For  
It!**



**I**t's 3 a.m. Saturday morning and you've got to e-file that Motion for Sanctions. You've been putting it off for almost a week now. You promised your client it would be on the court's docket by 9:00 a.m. Monday morning. Your vacation begins promptly at 9:01 a.m. - - hmmm, those non-refundable tickets seemed like a good idea at the time. You're pretty sure there's no internet connection on top of Mount Kilimanjaro. This motion has to be filed now or never, and never just isn't an option! You wipe your brow, steady your pulse and utter, "I can do this...**but I don't know what event to use, or where it's located!** I know, I'll call the CM/ECF Help Desk!" Your jubilation quickly reverts back to agony and sorrow however as you realize, "Shoot! Nobody's at the bankruptcy court at this hour! Yeah, that Michael guy works late, but surely not THAT late...nah, nobody's that eager to impress management. And I heard Aimee doesn't check Help Desk voice-messages until about 9:15 a.m....9:30 a.m. if her path is impeded by those tourists on the Metro. What to do, what to do, what to do??!" Suddenly, a glimmer of hope. "What's this...?" Your eyes struggle to see clearly through the blinding glare of the computer screen. "Could it be? S-E-A-R..... SEARCH! It's a CM/ECF events 'Search' option! YEESSSSSS!!!!!"

Yes dear e-filing customer, for your convenience the CM/ECF application is equipped with an events "Search" feature. This menu option is located at the top of the CM/ECF page, and has been available for about a year now. If you need to file a document and are not sure what the event is called and/or its location, simply click the "Search" option, type in all or part of the name of your pleading in the provided field, and hit "Enter" (or simply click on the magnifying glass). The search results of available events will appear alongside their location within the system (e.g. Bankruptcy >> Motions/Applications>> Sanctions). For your further convenience, the search results are hyperlinked, so clicking on them starts you on the path to filing your pleading.

The summit of Kilimanjaro! You've done it! You're on top of the world...not quite, but close enough. You inhale and soak in the moment. Suddenly, there's a knot in your stomach, your knees buckle, and your pupils do all sorts of funny things as you become fixated on the proverbial point in space. The sound of your guide's voice snaps you back to the present, "Mr Lawyer?! Mr. Lawyer?! Are you OK, sir? You don't look so good. Elevation sickness?" You open your mouth, you struggle to answer, but all that comes out is, "I didn't attach the proposed order. I'm gonna get one o' those electronic deficiency things..."

**A lot of people have been wondering...**

## **“Where in the World is Patti Meador???”**

In September of 2007, our former Chief Deputy, Patti Meador, left Washington, DC for sunny California. Since that time, she has continued her work with the Clerk's Office as a management analyst. Through the magic of technology and the Internet, she is able to enter orders and EDNs, so her name still appears on the docket from time to time. While she is no longer in the office physically, she is still with us in spirit and in e-mail!



Please remember to call the  
BK Clerk's  
Office's *CM/ECF Help Desk* at  
(202) 565-2506 for answers to all  
your  
CM/ECF questions.

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