

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

**ATTORNEY PROCEDURE FOR
CORRECTION OF DEBTOR INFORMATION MISMATCH**
Revised September 1, 2008

Background

When there are differences between the information entered in CM-ECF and the information on the petition or other document, the Clerk's Office follows two basic principles. First, the Clerk's Office cannot assume which information is correct and second, the method of correction depends on where the error is – in the information entered in CM-ECF or in the document filed.

The attorney must determine where the error is and which method to use to correct the error based on the following guidelines:

When the information entered in CM-ECF is incorrect, the policy of the Court is to allow the attorney to file a notice identifying the incorrect information and authorizing the Clerk to correct the data entered in CM-ECF. The Clerk's Office will correct the data entered in CM-ECF in accordance with the notice.

When the information in the petition is incorrect, the method of correction depends on the type of information - critical or less critical. It is the policy of the Court that a critical error can only be corrected by filing a motion to strike the wrong or incomplete petition and substitute a corrected version. A less critical error can be corrected by filing an amended petition. If the error is in a document other than the petition, amend the document.

There is an urgency in acting as soon as possible to correct the error, especially if the error occurred during the case opening process when the petition was filed. Almost all of the mismatch errors listed here will cause the Clerk's Office to enter a notice of error, put a hold on sending the notice of the section 341 meeting of creditors and stop processing the case until the error is corrected. For that reason, if the error is not corrected, the court will issue an order to show cause why the case should not be dismissed or the attorney sanctioned.

The Three <i>Critical</i> Mismatch Errors
▶The debtor name on petition does not match the debtor name entered in CM-ECF
▶The chapter on the petition does not match the chapter entered in CM-ECF.
▶The petition indicates a joint debtor case, but the data entered in CM-ECF indicates only one debtor or vice versa

A. Process for Correcting a Critical Mismatch Error:

1. **If the mismatch error is in the data entered in CM-ECF at case opening**, you will need to file local form “Notice of Incorrect Data Entered in CM-ECF (or Data Missing from CM-ECF) and Authorization for Clerk to Correct/Add Data.” Follow the Procedure to Notify Clerk of Incorrect or Missing Data in CM-ECF at

<http://www.nmcourt.fed.us/usbc/files/attyproc4clerk2correctCM-ECFdata.pdf>

2. **If the mismatch error is in the petition**, you will need to file a motion to strike the wrong document filed as the petition and substitute the correct petition. Follow the Procedure for Motion to Strike Wrong Document Filed as Petition and Substitute Correct Petition for Document #1 at

<http://www.nmcourt.fed.us/usbc/files/attyproc4m2strikedoc1.pdf>.

B. Process for Correcting a Less Critical Mismatch Errors

Some of the common less critical mismatch errors are

- ▶ The debtor’s first name is spelled Maria on the petition; Marie in CM-ECF.
- ▶ The debtor has an alias name on the petition and none in CM-ECF.
- ▶ The last four digits of social security number on the petition do not match the last four digits in CM-ECF.
- ▶ The street/mailling address on the petition does not match the address in CM-ECF.
- ▶ The county name on the petition does not match the county name in CM-ECF.
- ▶ The *type* of debtor on the petition is *individual*, but the *type* in CM-ECF is *corporation*.
- ▶ The nature of debts on the petition is *consumer*, but the nature of debts in CM-ECF is *business*.
- ▶ The nature of business on the petition does not match the nature of business entered in CM-ECF.
- ▶ The statistical/administrative information on the petition (i.e., number of creditors, amounts entered in statistical summary) does not match the data in CM-ECF.

1. **If the mismatch error is in the data entered in CM-ECF at case opening**, follow the instructions in A. 1. above.

2. **If the mismatch error is in the petition or other document**, amend the petition or other document. You do not need to file a motion to amend; just file a document that clearly states what is being amended. Be sure to have amendments to the petition, schedules or statements signed by the debtor in compliance with Fed. R. Bankr. P. 1008. See our local

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Revised June 18, 2008

form of Debtor's Unsworn Declaration Under Penalty of Perjury at

<http://www.nmcourt.fed.us/usbc/files/unsworndec4anydoc.pdf>

and the information on "Debtor's Signature" at

<http://www.nmcourt.fed.us/usbc/procedure-debtors-signature>.

Revision history: proposed October 1, 2007, revised April 14, 2008 (to distinguish between critical and non-critical based on whether or not to hold 341 meeting notice). Revised June 18, 2008 (to distinguish between critical and non-critical based on where error occurs and type of information). Revised August 28, 2008 to change method of correction when error is in the database to filing a notice in lieu of a motion/order to authorize clerk to change data.

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