

Overview of Bankruptcy Case Opening in CM-ECF
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Overview of Bankruptcy Case Opening in CM-ECF

A. Introduction:

This document is an overview of the case opening process. For step-by-step, detailed instructions read the “E-file a Voluntary Bankruptcy Petition” procedures posted at <http://www.nmcourt.fed.us/usbc/attorneys-forms-procedures>. You may also find the e-filing flowcharts in that same web page helpful as a guide to filing all case initiation documents.

In the process of e-filing a petition, a new bankruptcy case is opened and the case docket report is created in the Court’s case management (CM) database. Once the filer clicks on the *Submit* button after uploading the petition pdf file and confirming the docket text, a notice of electronic filing of the bankruptcy case is created and displayed on the screen. The notice of electronic filing is evidence of the filing and provides the case name and number, the date and time of filing, the filer’s name, and the document description. The notice of electronic filing is transmitted via e-mail by the CM-ECF system to the filer’s e-mail address on record with the Court.

Filing fees are paid on-line via Pay.gov. You can pay the filing fee for each document as *you file it* or you may choose to pay the filing fees for all documents filed during a single day at the end of the day. You must, however, pay the fees due for the day by 9:00 pm that day. If you do not pay fees by 9:00 pm on the day you file the documents, the system will lock you out of the document e-filing menus. Even though you will be locked out of the e-filing menus, you can still log in to CM-ECF to make payments by clicking on the **Internet Payments Due** link on the **Utilities** menu. Once you pay the fees due, your access to file documents is automatically restored. More information about paying online is available in the Online Credit Card Payments manual, available on the **Fees** page at www.nmcourt.fed.us/usbc/fees.

Instructions for requesting a waiver of the chapter 7 filing fee or paying the petition filing fee in installments are also posted at <http://www.nmcourt.fed.us/usbc/attorneys-forms-procedures>.

After the case is opened and the petition is assigned a case number, additional tasks must be performed and documents filed by the e-filer in CM-ECF in order to complete the case opening process. The additional steps and documents are outlined in sections D - G below.

Forms are posted at <http://www.nmcourt.fed.us/usbc/forms-attorney>.

NOTE: If you need assistance or have questions, do not hesitate to call the ECF help desk at 505-348-2500 or toll free 866-291-6805 and select option #3. We also regularly schedule training classes. For more information, go to our website at <http://www.nmcourt.fed.us/usbc/ecf-training>.

B. Documents to Include in the Petition PDF File:

The petition should be filed with all schedules and statements required by 11 U.S.C. § 521(a)(1) unless a “skeleton” petition must be filed in an emergency. The petition pdf file should include the following documents:

Chapter 7 Petition

1. Voluntary petition (with Exhibit D, if an individual debtor)
2. Summary of schedules (with statistical summary of certain debts, for individual debtor with primarily consumer debts)
3. Schedules A - J *Please note:* Pursuant to 11 U. S. C. § 521 (a) (1)(B)(vi), debtor must submit a “statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition.” In the District of New Mexico, this requirement can be satisfied by making a definitive statement on Schedule I, Line 17, and on Schedule J, Line 19.
4. Statement of financial affairs
5. Statement of current monthly income and means test calculation, Form B22A, for individual debtor.

Chapter 11 Petition

1. Voluntary petition (with Exhibit D, if an individual debtor)
2. Summary of schedules (with statistical summary of certain debts, for individual debtor with primarily consumer debts)
3. Schedules A - J (see note in Chapter 7 list above)
4. Statement of financial affairs
5. Statement of current monthly income, Form B22B, for individual debtor
6. List of creditors holding 20 largest unsecured claims

Chapter 12 Petition

1. Voluntary petition (with Exhibit D, if an individual debtor)
2. Summary of schedules
3. Schedules A - J (*see note in Chapter 7 list above*)
4. Statement of financial affairs
5. Statement of current monthly income (there is no official or local form)

Chapter 13 Petition

1. Voluntary petition with Exhibit D
2. Summary of schedules (with statistical summary of certain debts for individual debtor only)
3. Schedules A - J (see note in Chapter 7 list above)
4. Statement of financial affairs
5. Statement of current monthly income and calculation of commitment period and disposable income, Form B22C.

Chapter 9 or 15 Petition: Please call the ECF help desk at 505-348-2500 or toll free 866-291-6805 and select option #3 for requirements.

You should be able to set up a template for each chapter in your bankruptcy software so that the documents listed above (and only those documents) are automatically included in the petition PDF file. Contact your software vendor for assistance. Your software vendor may also be able to include the local forms, like the debtor's petition signature page, in the bankruptcy software program.

C. Debtor's Signature Page:

Fed. R. Bankr. P. 1008 requires debtor's verification of petitions and accompanying papers and amendments thereto. In the United States Bankruptcy Court for the District of New Mexico, documents which require the verified signature of a person other than the e-filing attorney may be electronically filed utilizing scanning technology.

Note: Documents which require the verified signature of the debtor include the petition, schedules, statement of affairs, statement of intent, disclosure of marital status, disclosure of non-filing spouse, certification of community property, statement of social security number, reaffirmation agreement, an application to pay filing fee in installments, and an application for waiver of chapter 7 filing fee, and any amendments to these documents.

The debtor signature pages for e-filed petitions are posted on the Court's website at <http://www.nmcourt.fed.us/usbc/forms-attorney#signature>. Please carefully review the debtor signature forms. These forms are designed to be used when filing the petition (or when filing schedules after a skeleton petition has been filed). These forms should not be used for subsequent or unrelated documents, such as an amendment to the petition or an amended statement of intention.

Use the Unsworn Declaration Under Penalty of Perjury - a generic signature page for use with documents requiring debtor's signature - when a signature block is not otherwise provided on the form.

Please take note: The judges have asked the Clerk's Office to check all documents requiring the debtor's signature and to inform them when a signature is missing or does not appear to be a fresh signature, i.e., the signature is a copy of a signature obtained for a previously-filed document and appears to be "recycled."

The debtor's signature page, signed by the debtor, should be scanned and printed to pdf for uploading as either an attachment to the petition when the petition pdf file is uploaded in the case opening process or as a separate document immediately after filing the petition. Some bankruptcy software packages will file the signature page as a separate document, immediately following the petition pdf file. If your software package does not automatically file the signature page for you, please file it after the petition is filed. Instructions for filing the signature page as a separate document are included in "E-file a Voluntary Bankruptcy Petition" procedures posted at <http://www.nmcourt.fed.us/usbc/attorneys-forms-procedures>.

1. **Signature pages to use when filing a petition with schedules and statements:** Use NM Form 500-7, 500-11, 500-12, and 500-13 when the debtor is an individual. Use NM Form 500 when filing a chapter 7, 11 or 12 petition for a corporate or partnership debtor.
2. **Signature pages to use when filing a "skeleton" petition:** Use NM Form 501-7, 501-11, 501-12, and 501-13 when debtor is an individual. Use NM Form 501-11C for a corporate or partnership chapter 11 debtor. Use NM Form 501-712C for a corporate or partnership chapter 7 or chapter 12 debtor.
3. **Signature pages to use when filing schedules and statements AFTER a "skeleton" petition is filed.** Use NM Form 502-7, 502-11, 502-12, and 502-13 signature pages to file statements and schedules when debtor is an individual. Use NM Form 502 signature page when filing schedules and statements for a corporate or partnership debtor.

D. Creditor Mailing List:

Pursuant to Fed. R. Bankr. P. 1007 (1), the debtor shall file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E, F, G, and H. The mailing list, also known as the mailing matrix, must be uploaded as a plain text or an ASCII DOS text file during the case opening process. Effective June 9, 2006, in the District of New Mexico, you must include the following

entities in your creditor mailing list:

1. Name and address of non-filing spouse, if any; and
2. NM Taxation & Revenue Department
PO Box 8575
Albuquerque, NM 87198-8575

E. Special Instructions for Filing a Chapter 13 Plan with the Petition:

In a chapter 13 case, the Clerk's Office will mail copies of the plan to the creditors along with the "Notice of Deadline for Filing Objections to Confirmation of Chapter 13 Plan," if the plan and notice are filed with the petition. The chapter 13 plan must be filed **after the creditors are uploaded** and **before running the judge/trustee assignment module**. The notice must be filed after running the judge/trustee assignment module. Use "Notice of Deadline for Filing Objections to Chapter 13 Plan and Related Motions," NM Form 600, if filing notice and plan with petition.

F. Judge/Trustee Assignment:

With the exception noted above for chapter 13 cases, the e-filer must run the judge/trustee assignment module right after uploading the creditor list. This module will assign the judge, the case trustee, and the § 341 meeting of creditors location, date, and time.

G. Documents to Submit Immediately Upon Receipt of Case Number:

With the exception of a chapter 13 case where the plan is filed with the petition as described above, the following documents (if applicable to the debtor, chapter, or attorney circumstances) should be filed immediately after the creditor mailing list is uploaded and the judge/trustee assignment module has been run.

All of the forms listed below are posted in pdf, WordPerfect, and MS WORD format at <http://www.nmcourt.fed.us/usbc/forms-attorney>:

1. Debtor's Signature Page if filing the signature page as a separate document instead of as an attachment to the voluntary petition.
2. Certificate of completion of budget and credit counseling required when debtor is an individual [11 U. S. C. § 109 (h)(1)]. Also see request for extension [§ 109 (h)(3)] and request for waiver [§ 109 (h)(4)]. If extension or waiver is sought, use NM Form 504 or 505.

3. Verified statement of social security number. Use Official Form B21. This form must be signed by the debtor, scanned in, and saved as a pdf file. Fed. R. Bankr. P. 1007(f).
4. Disclosure of marital status and non-filing spouse, if any, and certificate regarding community information required by NM Local Rules 1002 and 1007. Use NM Form 402 if filing the petition with all schedules and statements. Use NM Form 400 if filing a “skeleton” petition. Then, file NM Form 401 when the schedules and statements are filed.
5. Chapter 7 Individual Debtor’s Statement of Intention. Use Official Form B8. This form must be signed by the debtor, scanned in, and saved as a pdf file. 11 U.S.C. § 521(a)(2)(A)
6. Notice of Deadline for Filing Objections to Confirmation of Chapter 13 Plan. Use NM Form 600 when plan is filed with petition. Use NM Form 601 when plan or notice is filed after petition is filed.
7. Disclosure of compensation of attorney for debtor pursuant to Fed. R. Bankr. P. 2016. Use form B203.
8. Notice of unavailability to attend 341 meeting, if applicable. Note: This is not a document; it is a text-only event. For instructions, go to <http://www.nmcourt.fed.us/usbc/files/ntcofunavailre341mtg.pdf>
9. Chapter 11 small business documentation required by 11 U.S.C. § 1116. Each document must be filed as a separate document/pdf file:
 - a. Balance sheet or statement why not filed with petition;
 - b. Cash flow statement or statement why not filed with petition;
 - c. Statement of operations or statement why not filed with petition; and
 - d. Federal tax return (or statement why not filed with petition)
10. Application to Pay Filing Fee in Installments. Use NM Form 508. The form must be signed by the debtor(s), scanned in and saved as a pdf file. For filing instructions, go to <http://www.nmcourt.fed.us/usbc/procedures-installment>.
11. Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee in Full or in Installments. Use NM OF 3B. The form must be signed by the debtor(s), scanned in and saved as a pdf file. For filing instructions, go to <http://www.nmcourt.fed.us/usbc/procedures-waiver>.

12. Corporate Ownership Statement. Use the court's local form "Corporate Ownership Statement - Bankruptcy Case." Form must be signed by the debtor's representative, scanned in and saved as a pdf file. Fed. R. Bankr. P. 1007(a)(1).

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Revision history:

Modified 11/06/09 by SAK to change font from Comic Sans to Arial and to make point size 12 throughout. Date of previous publication of this procedure was February 25, 2009.