

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

**PROCEDURE TO
DISMISS DUPLICATE BANKRUPTCY CASE**
Effective November 30, 2007

Background

When a duplicate petition is filed for the same debtor, one of the cases must be dismissed. It is the practice of this Court to dismiss the case that was filed second (the case with the higher case number). When the Clerk's Office discovers that a duplicate bankruptcy case has been filed, the Clerk's Office will docket and send a *Notice of Error* to the attorney who filed the duplicate case. The attorney must file a motion to dismiss the duplicate case within one business day.

Procedure: File a Motion to Dismiss Duplicate Case

1. **When you are contacted by the Clerk's Office and / or receive a Notice of Error**, please upload creditors immediately (if you have not already done so) and run the judge/trustee assignment module. This is necessary for CM-ECF to assign a judge to the case.
2. When you have the name of the judge on the case, prepare a Motion to Dismiss Duplicate Case tracking the sample order granting motion to dismiss case. The sample order is posted on the Court's website at http://www.nmcourt.fed.us/usbc/files/o_m2dismdupcase.pdf. Search "attorney forms" to obtain the sample order in Corel WordPerfect and Microsoft Word formats.
3. In CM-ECF, file the *Motion to Dismiss Duplicate Case* in the case with the higher case number as follows:

Bankruptcy menu → Motions/Applications menu
→ enter case # → select "Dismiss Bankruptcy for other reasons (Motion)"
→ select debtor(s) as party → Upload motion pdf file
→ review docket entry; if okay, click on NEXT
→ review final text; if okay, click on NEXT to file motion.
4. Submit a proposed order to the judge via e-mail. For instructions to do this, see <http://www.nmcourt.fed.us/usbc/proposed-orders>.
5. The filing fee for a duplicate will not be refunded. See Section 5.5 of the Administrative Electronic Filing Procedures at <http://www.nmcourt.fed.us/usbc/files/060506ecfpro.pdf>.