

File a Complaint - Open an Adversary Proceeding

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Issue Date

January 6, 2011

Revised: October 11, 2011

Purpose

This procedure is written to guide the electronic filer through the process of filing a complaint¹. If you are filing a notice of removal, see the procedure, *File a Notice of Removal*.

Before You Start

Review the [basic guidelines for filing a complaint](#) before you begin the process of opening an adversary proceeding.

Open Adversary Proceeding

STEP	ACTION
1	Log in to CM/ECF at https://ecf.nmb.uscourts.gov/ <input type="checkbox"/> Click the Adversary menu item in the blue menu bar.
2	The Adversary Events menu displays. <input type="checkbox"/> Click the Open AP Case hyperlink.

¹On December 1, 2010, the changes were made to objecting to the debtor's discharge under section 727(a)(8), (a)(9), or 1328(f) that now require a motion to be filed. See Federal Rule of Bankruptcy Procedure 4004(a).

STEP	ACTION
3	<p>The Open Adversary Case screen displays:</p> <ul style="list-style-type: none"> • Case Type defaults to ap; • Date Filed is the current date; • Complaint defaults to "y" (yes). <p><input type="checkbox"/> Click the Next button.</p>
4	<p>The Open Adversary Case screen displays:</p> <p><input type="checkbox"/> Enter the Lead case number to which the adversary proceeding is associated with. Type the bankruptcy case number as YY-XXXXX, including the hyphen. Do not add chapter or judge/location designation.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Warning: A lead case number should always be entered. Do not leave this field blank. If the lead case number is not entered in the database as a valid case number or in the database at all, you can continue with the open AP case. The system will display a “cannot find case” message and will require you to enter the divisional office. A judge will not be assigned - STOP and call the ECF help desk for assistance. 505-348-2500 or toll-free at 866-291-6805 select option 3.</p> </div> <p>The Association type defaults to Adversary. Always use the default Adversary.</p> <p><input type="checkbox"/> Click the Next button.</p>
5	<p>The Open Adversary Case screen displays:</p> <p>The case will be assigned to the divisional office and judge based on the lead case number entered.</p> <p>If the related bankruptcy case is pending, the system will display a message similar to this: “Case is assigned to Albuquerque Division, Judge Jacobvitz based on the lead Bankruptcy case 07-10019-j7.”</p>

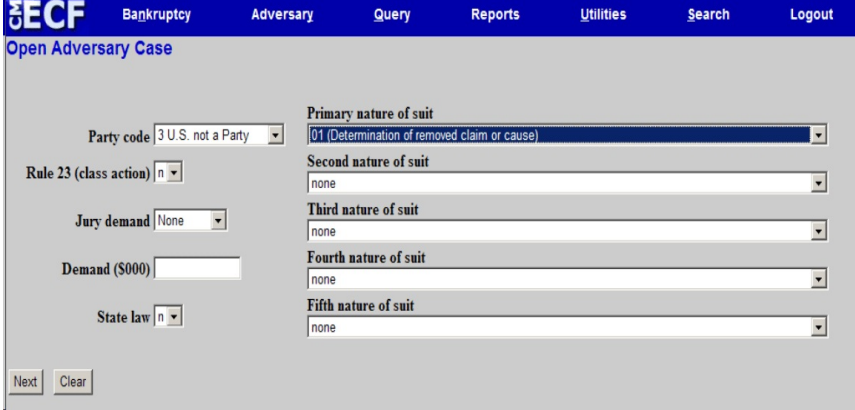
STEP	ACTION						
	<p>If the related bankruptcy case is closed, the system will display a warning message similar to this: “WARNING! 07-10019-J7 is closed.”</p> <p><input type="checkbox"/> Click the Next button.</p>						
6	<p>The Open Adversary Case - Search for a Plaintiff screen displays. This screen allows for a search of the ECF database.</p> <p><input type="checkbox"/> Enter the party’s SSN or Tax ID, or all or part of the last or business name, and click the Search button.</p>						
7	<p>Party Search Results:</p> <table border="1" data-bbox="500 730 1190 1142"> <thead> <tr> <th data-bbox="506 739 846 785">IF the Plaintiff’s name</th> <th data-bbox="846 739 1183 785">THEN</th> </tr> </thead> <tbody> <tr> <td data-bbox="506 785 846 947">displays and is an <i>exact</i> match to the name as it appears on the complaint,</td> <td data-bbox="846 785 1183 947"><input type="checkbox"/> Click the Select name from list button. Follow the steps in step 8.</td> </tr> <tr> <td data-bbox="506 947 846 1134">does not appear as an <i>exact</i> match, or “no person found” message displays,</td> <td data-bbox="846 947 1183 1134"><input type="checkbox"/> Click the Create New Party button to add the party to the database. Follow the steps in step 9.</td> </tr> </tbody> </table>	IF the Plaintiff’s name	THEN	displays and is an <i>exact</i> match to the name as it appears on the complaint,	<input type="checkbox"/> Click the Select name from list button. Follow the steps in step 8 .	does not appear as an <i>exact</i> match, or “no person found” message displays,	<input type="checkbox"/> Click the Create New Party button to add the party to the database. Follow the steps in step 9 .
IF the Plaintiff’s name	THEN						
displays and is an <i>exact</i> match to the name as it appears on the complaint,	<input type="checkbox"/> Click the Select name from list button. Follow the steps in step 8 .						
does not appear as an <i>exact</i> match, or “no person found” message displays,	<input type="checkbox"/> Click the Create New Party button to add the party to the database. Follow the steps in step 9 .						
8	<p>The Plaintiff Information screen displays with the party’s name and address (if previously entered).</p> <p><input type="checkbox"/> Delete the following Plaintiff Information:</p> <ul style="list-style-type: none"> • Address 1, • City, • State, • Zip, and • County - ensure county is blank by choosing the ‘blank’ selection from the drop down menu. <div data-bbox="423 1593 1268 1703" style="border: 1px solid black; padding: 5px;"> <p>Note: The party’s address will be that of the attorney representing the plaintiff unless the party is self-represented. If that is the case, leave the address AS IS.</p> </div>						

STEP	ACTION
	<p data-bbox="418 268 1269 401"> <input type="checkbox"/> If appropriate, enter Party Text information. Examples of party text information include, “a New Mexico Corporation” or “Personal Representative of the Estate,” etc. </p> <p data-bbox="418 436 1211 506"> Do not enter ‘Plaintiff’ as descriptive information in party text. The information displays automatically on the docket sheet. </p> <p data-bbox="418 541 1243 638"> <input type="checkbox"/> Enter Role in Bankruptcy Case. Select the party’s role in the related bankruptcy case. A selection must be made. </p> <p data-bbox="418 674 1243 846"> <input type="checkbox"/> Click Add additional attorney, if there are additional attorneys representing the plaintiff. The next screen, Search for attorney displays if you need to add additional attorneys. Follow the instructions for Adding additional attorney. </p> <div data-bbox="431 873 1268 982" style="border: 1px solid black; padding: 5px;"> <p data-bbox="443 894 1243 963"> Note: If the attorney filer represents the Plaintiff, the attorney will automatically be associated. </p> </div> <p data-bbox="418 1052 1260 1148"> <input type="checkbox"/> If appropriate, click the Alias button to begin adding aliases for this party. The Alias Information screen will be displayed. Follow the instructions for Adding Aliases. </p> <p data-bbox="418 1184 1252 1316"> <input type="checkbox"/> If appropriate, click the Corporate parent/affiliate button. A Corporate Ownership Statement must be filed pursuant to Rule 7007.1 (unless the plaintiff is the debtor). </p> <ul data-bbox="516 1352 1243 1625" style="list-style-type: none"> <li data-bbox="516 1352 1243 1524"> • If there are any reportable corporate names, enter the names via the Corporate parent / affiliate button. To add the corporate names listed on the Corporate Ownership Statement, follow the instructions on How to Add Corporate Parents. <li data-bbox="516 1560 1243 1625"> • If there are no reportable names, ignore the Corporate parent / affiliate button.

STEP	ACTION
	<ul style="list-style-type: none"> <input type="checkbox"/> At the Plaintiff Information screen, click on the Review button to review the accuracy of the aliases and additional attorneys names added. To exit the Review attorneys and aliases screen, click on the Return to Party screen button. <input type="checkbox"/> Click the Submit button. <input type="checkbox"/> You may receive warning messages that fields have been left blank. Click on the OK button for each warning message.
9	<p>The Plaintiff Information screen displays when there is no match found in the database, and you have clicked the Create New Party button.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Leave the following blank: <ul style="list-style-type: none"> • Address 1, • City, • State, • Zip, and • County - ensure county is blank by choosing the 'blank' selection from the drop down menu. <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Note: Since the Plaintiff is represented by an attorney, no party address is necessary.</p> </div> <ul style="list-style-type: none"> <input type="checkbox"/> If appropriate, enter Party Text information. Examples of party text information include "New Mexico Corporation," or "Personal Representative of the Estate," etc. <p>Do not enter 'Plaintiff' as descriptive information in party text. This information will automatically appear after the Plaintiff's name on the docket sheet.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Enter Role in Bankruptcy Case. Select the party's role in the related bankruptcy case. A selection must be made. <input type="checkbox"/> Click the Add additional attorney to associate additional attorneys to the plaintiff. The Search for attorney screen displays. Follow the instructions for Adding additional attorney.


STEP	ACTION
	<div data-bbox="423 302 1219 373" style="border: 1px solid black; padding: 5px;"> <p>Note: if the attorney filer represents the Plaintiff, the attorney will automatically be associated.</p> </div> <ul style="list-style-type: none"> <li data-bbox="423 415 1260 512">□ If appropriate, click the Alias button to begin adding aliases for this party. The Alias Information screen will be displayed. Follow the instructions for Adding Aliases. <li data-bbox="423 554 1243 890">□ If appropriate, click the Corporate parent/affiliate button. A Corporate Ownership Statement must be filed pursuant to Rule 7007.1 (unless the plaintiff is the debtor). <ul style="list-style-type: none"> <li data-bbox="516 722 1243 890">• If there are any reportable corporate names, enter the names via the Corporate parent / affiliate button. To add the corporate names listed on the Corporate Ownership Statement, follow the instructions on How to Add Corporate Parents. <li data-bbox="516 932 1243 995">• If there are no reportable names, ignore the Corporate parent / affiliate button. <li data-bbox="423 1037 1252 1184">□ At the Plaintiff Information screen, click on the Review button to review the accuracy of the aliases and additional attorneys names added. To exit the Review attorneys and aliases screen, click on the Return to Party screen button. <li data-bbox="423 1226 834 1268">□ Click the Submit button. <li data-bbox="423 1310 1252 1394">□ You may receive warning messages that fields have been left blank. Click on the OK button for each warning message.
10	<p>The Plaintiff Information screen displays again.</p> <ul style="list-style-type: none"> <li data-bbox="423 1499 1175 1562">□ Enter the next Plaintiff in the same manner until all Plaintiffs have been entered. <li data-bbox="423 1604 1045 1633">□ Click the End plaintiff selection button.
11	<p>The Open Adversary Case - Search for a Defendant screen displays. This screen allows for a search of the ECF database.</p>

STEP	ACTION						
	<input type="checkbox"/> Enter the party's SSN or Tax ID, or all or part of the last or business name, and click the Search button.						
12	<p>Party Search Results:</p> <table border="1" data-bbox="500 527 1190 1413"> <thead> <tr> <th data-bbox="508 527 846 617">IF the defendant's name</th> <th data-bbox="846 527 1182 617">THEN</th> </tr> </thead> <tbody> <tr> <td data-bbox="508 617 846 1014"> displays as a result of the search, </td> <td data-bbox="846 617 1182 1014"> click the name to select it. <input type="checkbox"/> Click the Select name from list button. Follow the steps listed in step 7. The attorney for the defendant will be added when they file a responsive document. </td> </tr> <tr> <td data-bbox="508 1014 846 1413"> does not appear, or doesn't <u>exactly</u> match </td> <td data-bbox="846 1014 1182 1413"> a "No person found" message displays. <input type="checkbox"/> Click the Create New Party button to add the party. Follow the steps listed in step 8. The attorney for the defendant will be added when they file a responsive document. </td> </tr> </tbody> </table>	IF the defendant's name	THEN	displays as a result of the search,	click the name to select it. <input type="checkbox"/> Click the Select name from list button. Follow the steps listed in step 7 . The attorney for the defendant will be added when they file a responsive document.	does not appear, or doesn't <u>exactly</u> match	a " No person found " message displays. <input type="checkbox"/> Click the Create New Party button to add the party. Follow the steps listed in step 8 . The attorney for the defendant will be added when they file a responsive document.
IF the defendant's name	THEN						
displays as a result of the search,	click the name to select it. <input type="checkbox"/> Click the Select name from list button. Follow the steps listed in step 7 . The attorney for the defendant will be added when they file a responsive document.						
does not appear, or doesn't <u>exactly</u> match	a " No person found " message displays. <input type="checkbox"/> Click the Create New Party button to add the party. Follow the steps listed in step 8 . The attorney for the defendant will be added when they file a responsive document.						
13	<p>The Defendant Information screen displays again.</p> <input type="checkbox"/> Enter the next Defendant in the same manner until all Defendants have been entered.						
	<input type="checkbox"/> Click the End defendant selection button.						

STEP	ACTION
14	<p data-bbox="418 268 1003 300">The Open Adversary Case screen displays.</p>  <p data-bbox="418 772 1268 1717"> <input type="checkbox"/> Click the Party Code from the drop-down arrow (based on whether the US is a party in the case): <ul style="list-style-type: none"> • U.S. is a Plaintiff • U.S. is a Defendant • U.S. is not a Party (system defaults to this selection) </p> <p data-bbox="418 978 1268 1045"> <input type="checkbox"/> Click the drop-down arrow and select the Nature of Suit from the pick list. </p> <p data-bbox="418 1083 1268 1182"> <input type="checkbox"/> Click the drop-down arrow and select Rule 23 (class action). The system defaults to “n” for no. Select “y” if the proceeding is a class action. </p> <p data-bbox="418 1220 1268 1451"> <input type="checkbox"/> Click the drop-down arrow and select the Jury Demand. The system defaults to None. If a jury is requested, select the party making the demand: <ul style="list-style-type: none"> • Both • Defendant • None • Plaintiff </p> <p data-bbox="418 1488 1268 1587"> <input type="checkbox"/> Enter the Demand. If there is a dollar amount demanded, enter the demand amount in thousands. For example, if the demand is \$50,000, enter “50” in this field. </p> <p data-bbox="418 1625 1268 1717"> <input type="checkbox"/> The State Law field defaults to “n” (no). Click the drop down box if you need to change it to “y” (yes) or “u” (unknown). </p>

STEP	ACTION
	<input type="checkbox"/> Click the Next button.
15	<p>The Browse for PDF/A document screen displays. This screen allows you to upload the saved adversary documents into ECF.</p> <p><input type="checkbox"/> Click on the Browse button and locate the PDF/A file.</p> <p><input type="checkbox"/> Right click on the PDF/A file and open it to verify that it is the correct document. Close the Adobe Acrobat screen by clicking the X in the upper-right corner.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Important: Once you submit a document for filing in CM/ECF, the document is officially filed and entered on the docket. For this reason, always open and view the file just before you upload it for filing.</p> </div> <p><input type="checkbox"/> If there are attachments, click on the Yes radio button.</p> <p style="padding-left: 40px;"><input type="checkbox"/> Follow the instructions for Adding Attachments.</p> <p><input type="checkbox"/> Click the Next button.</p>
16	<p>The Filer Type screen displays. This screen allows you to make a determination if the fee is due, deferred, not due, or waived.</p> <p><input type="checkbox"/> Answer “y” or “n” to the following question:</p> <p style="padding-left: 40px;"><i>“Under 28 USC Sec. 1930, is the Fee Deferred, Not Due, or Waived?”</i></p> <p>You must answer yes or no to the question before proceeding.</p> <p>If you answer yes, the next screen displays for you to make the appropriate selection.</p>

STEP	ACTION
	<div data-bbox="641 281 959 653" style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> </div> <ul style="list-style-type: none"> • Select DEFERRED if the plaintiff is the trustee or debtor-in-possession, the funds are payable only by the estate, and no funds are currently available. • Select NOT DUE if the plaintiff is the United States, debtor, debtor-in-possession acting for the benefit of an individual debtor, or a child support creditor, or its representative who files Procedural Form B281; • Select WAIVED if a request for waiver of the filing fee is being made by the filer. <p><input type="checkbox"/> Click the Next button.</p>
17	<p>Regardless if you answered “Yes” or “No” to the FEE question, the screen displays the filing fee associated with this filing.</p> <p><input type="checkbox"/> If the fee is being deferred, is not due, or a waiver has been requested, enter in all caps DEFERRED, NOT DUE, or WAIVED in the Receipt # Box as appropriate.</p> <p><u>Warning:</u> If you fail to enter text in the Receipt # box, <u>the fee will be charged.</u></p>

STEP	ACTION
	<p>For example:</p>  <p><input type="checkbox"/> Click the Next button.</p> <p><input type="checkbox"/> Click the Next button again to display Final Docket Text.</p>
18	<p>The Docket Text: Final Text screen displays. This screen allows for a review of the text that will display on the electronic docket. Review the information for accuracy ensuring that you have redacted Social Security or taxpayer-identification numbers; dates of birth; names of minor children; and financial account numbers, in compliance with Fed. R. Bankr. P. 9037. This requirement applies to all documents, including attachments.</p> <p><input type="checkbox"/> Click the Next button to submit the filing.</p>
19	<p>The Notice of Electronic Filing screen displays. This notice is evidence of the filing and provides the adversary proceeding title and number, the date and time of filing, the filer's name, and the document description.</p> <ul style="list-style-type: none"> ● Clicking on the adversary proceeding number hyperlink will display the docket report for the adversary proceeding. ● Clicking on the lead case number hyperlink will display the docket report for the bankruptcy case. ● Clicking on the document number hyperlink will display the pdf image of the document just filed. ● If you have not already associated your PACER log in and password with your CM/ECF log in and password, the system will ask for your PACER log in and password. ● PACER will assess a per-page fee to view/print the document or docket report. To obtain your free look, print the document

STEP	ACTION
	from the Notice of Electronic Filing (NEF) you receive in your e-mail in-box when you file documents electronically.
20	<p>A Summary of current charges screen displays. <i>(Exception: The screen does not display when the fee selected was deferred, not due, or waived.)</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Select Pay Now to make payment. <input type="checkbox"/> OR Continue Filing to file other cases prior to making payment or to exit the module. <ul style="list-style-type: none"> • Refer to the Paying Filing Fees via Pay.gov for an explanation of the electronic payment module found on at http://www.nmcourt.fed.us/usbc/files/paygovprocd.pdf
21	You have completed the case opening process.

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