

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

**ATTORNEY'S PROCEDURE FOR MOTION TO STRIKE DOCUMENT
AND RESTRICT ACCESS (AND SUBSTITUTE DOCUMENT *if necessary*)**

Effective May 1, 2008, revised July 28, 2009

Background

When a filer discovers that a petition *pdf* file or another *pdf* file contains information which should not be available for the public to view pursuant to Fed. R. Bankr. P. 9037(a), e.g. a 9-digit social security number, the filer will need to file a motion to strike the entire document, restrict access and, in the case of a petition, substitute another petition pdf file (one that does not contain the document you want restricted).

With one exception, the Clerk's Office does not review documents for compliance with Fed. R. Bankr. P. 9037(a); it is not the responsibility of the Court or the Clerk's Office to notify filers when documents are not in compliance with the rule. The exception is the Statement of Social Security Number. Technically, the Statement of Social Security Number, which contains the full 9-digit number, is not "filed" with the Court - it is "submitted." In order to facilitate electronic *submission* of the Statement, the Clerk's Office has provided a specific event which automatically restricts viewing of the Statement to court staff only.¹ Attorneys are responsible for using the specific event so that the Statement is restricted from public viewing.

When an attorney submits a separate statement of social security number using an unrestricted event, the Clerk's Office will restrict the statement and enter a notice of adjustment to notify the filer that the error has been corrected by the Clerk's Office.

When the debtor's 9-digit social security number is in the petition, which by law is not restricted from public viewing, the Clerk's Office will docket a Notice of Error to alert the attorney to unrestricted submission of the debtor's social security number. The attorney is referred to this procedure to fix the error. The Clerk's Office does not follow up on whether or not the attorney fixes the error.

A. When the error is in the petition pdf file:

1. ***Recreate the petition pdf file.*** Recreate the petition pdf file so that the page containing the private information is no longer included in the pdf file. **BE SURE TO REVIEW THE PDF FILE BEFORE YOU RE-FILE IT.**
2. ***File petition in CM-ECF as follows:***

Bankruptcy menu → Miscellaneous menu

¹The event is available in CM-ECF from the Bankruptcy Events → Miscellaneous → Statement of Social Security Number.

- enter case # → select "Document" from the event pick list
- select debtor(s) as the party
- Upload correct petition pdf file and the signature page **as an attachment**
(VIEW THE FILES FIRST IN THE BROWSE WINDOW. IF YOU AREN'T LOOKING AT THE CORRECT PETITION PDF FILE, DO NOT UPLOAD IT. Start over by clicking on any of the hyperlinks in the blue CM-ECF menu bar at the top of the screen. If you need help, call the Clerk's Office at 505-348-2500 and ask for the CM-ECF trainer.)
- At the prompt: *What are the details of the document?* type in one of the following:
 - a. Voluntary Petition with Schedules and Statements for Debtor (*enter name of debtors*).

OR

 - b. Voluntary Petition without Schedules and Statements for Debtor (*enter name of debtors*).
- Review the docket text and, if correct, click on NEXT to submit the correct petition. If the text is NOT correct, start over by clicking on any of the hyperlinks in the blue CM-ECF menu bar at the top of the screen.

3. ***Prepare a motion to strike document, restrict access and substitute document # 1.***
Draft your motion tracking the order on the Court's website under Forms - Attorney Forms - Order Granting Motion to Strike Document, Restrict Access and Substitute Document #1. The form order is available in pdf, Corel WordPerfect, and MS Word format.

4. ***File the motion to strike in CM-ECF as follows:***

- Bankruptcy menu → Motions/Applications menu
- enter case # → select "Strike (Motion)"
- select debtor(s) as party
- Upload motion pdf file. (VIEW THE FILE FIRST IN THE BROWSE WINDOW. IF YOU AREN'T LOOKING AT THE CORRECT PDF FILE, DO NOT UPLOAD IT. Start over by clicking on any of the hyperlinks in the blue CM-ECF menu bar at the top of the screen. If you need help, call the Clerk's Office at 505-348-2500 and ask for the CM-ECF trainer.)
- at prompt: *Refer to existing event(s)?* click in the box.
- at prompt: *Select the category to which your event relates,* select *misc.*
- at prompt: *Select the appropriate event(s) to which your event relates:*, check the box for document #1, the voluntary petition.
- review final docket text; if okay, click on NEXT. If not okay, start over by clicking on any of the hyperlinks in the blue CM-ECF menu bar at the top of the screen.

5. ***Draft an order granting your motion*** and submit it to the appropriate judge. Instructions for submitting a proposed order are on our website at

<http://www.nmcourt.fed.us/usbc/proposed-orders>

B. When the error is in a document other than the petition pdf file:

1. ***Recreate the document pdf file.*** Recreate the document pdf file so that the page containing the private information is no longer included in the pdf file. **BE SURE TO REVIEW THE PDF FILE BEFORE YOU RE-FILE IT.** File the document - this time without the “offending” page. Note, when the document you want the court to strike and restrict is NOT a petition, you do not need to substitute a document in its place; all you need to do is re-file the document.
2. ***Prepare a motion to strike document # ___ and restrict access.*** Draft your motion tracking the order on the Court's website under Forms - Attorney Forms - Order Granting Motion to Strike Document # ___ and Restrict Access. The form order is available in pdf, Corel WordPerfect, and MS Word format.
3. ***File the motion to strike in CM-ECF as follows:***

Bankruptcy menu → Motions/Applications menu

→ enter case # → select “Strike (Motion)”

→ select debtor(s) as party

→ Upload motion pdf file. (VIEW THE FILE FIRST IN THE BROWSE WINDOW. IF YOU AREN'T LOOKING AT THE CORRECT PDF FILE, DO NOT UPLOAD IT. Start over by clicking on any of the hyperlinks in the blue CM-ECF menu bar at the top of the screen. If you need help, call the Clerk's Office at 505-348-2500 and ask for the CM-ECF trainer.)

→ at prompt: *Refer to existing event(s)?* click in the box.

→ at prompt: *Select the category to which your event relates,* select *misc.*

→ at prompt: *Select the appropriate event(s) to which your event relates:*, check the box for document # ___, the document you want stricken.

→ review final docket text; if okay, click on NEXT. If not okay, start over by clicking on any of the hyperlinks in the blue CM-ECF menu bar at the top of the screen.

4. ***Draft an order granting your motion*** and submit it to the appropriate judge. Instructions for submitting a proposed order are on our website at

<http://www.nmcourt.fed.us/usbc/proposed-orders>

If you have any questions about this procedure, please do not hesitate to call the Clerk's Office at 505-348-2500 or toll free at 866-291-6805 and ask for a CM-ECF trainer.

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