

Motion by Debtor to Divide Joint Case

Issue Date

September 21, 2011

Purpose

This procedure is written to guide the electronic filer through the process of filing a motion by debtor to divide joint case.

Overview

If a case was filed as a joint petition pursuant to 11 U.S.C. Section 302, one of the debtors may file a motion to divide joint case into two separate cases. However, if the cases were initially filed separately and ordered to be consolidated or jointly administered pursuant to Fed. R. Bankr. P. 1015, **any party** may file a motion to divide the joint case.

Cases that are initially filed as a joint case may need to be divided when one debtor:

- wishes to convert to a case under another chapter, or
- wishes to remain in the current chapter, but continue as separate cases.

Important: If you are seeking to **dismiss one party** in a filing by husband and wife, or **one debtor is ineligible for a discharge**, or **waived a discharge**, **DO NOT** file a motion to divide joint case. It is not necessary, in any of these instances, to divide the joint case.

If an order is entered granting the motion, the Clerk's Office will open a new case for the appropriate debtor and assign a new case number. The lead document for the new case will be the order granting the motion to divide joint case.

If the motion was filed because one debtor wishes to convert to a case under another chapter, remember to file the appropriate conversion document when you receive the Notice of Electronic Filing for the new case. **DO NOT** file the notice or motion of conversion in the current case number.

Filing Requirements

A filing fee is required when the motion to divide joint case is filed, see [Bankruptcy Court Fee Schedule](#).

Note: If a motion to convert as to one debtor is filed, the conversion fee AND the fee to split the case are both due. The case must be split prior to conversion to another chapter.

Procedure

STEP	ACTION
1	Prepare the motion by debtor to divide joint case.
2	Log in to CM/ECF at https://ecf.nmb.uscourts.gov/ . Click on the Bankruptcy menu option in the blue menu bar.
3	The Bankruptcy menu displays. Click on the Motions/Applications hyperlink.
4	Enter case number and click Next . Select the appropriate event from the Bankruptcy Events -> Motions/Applications menu: <ul style="list-style-type: none">• Divide Joint Chapter 11 Case (Motion)• Divide Joint Chapter 12 Case (Motion)• Divide Joint Chapter 13 Case (Motion)• Divide Joint Chapter 7 Case (Motion) Click on the Next button. Click Next again.
5	Select the appropriate debtor as the party filer and browse to select the motion pdf file. Click on the Next button. Note: Remember to view the file first in the browse window to ensure the correct pdf file is uploaded.
6	Verify the fee amount being charged.

STEP	ACTION
	<p>Note: If an order approving the filing fee waiver is filed, type WAIVED in the receipt # box.</p> <p>WARNING: Failing to type WAIVED in the box will result in the fee being charged.</p> <p>Click on the Next button. Click Next again.</p>
7	Verify final docket text. If correct, click on the Next button to submit.
8	<p>Submit an order granting the motion to the appropriate judge.</p> <p>Instructions for submitting a proposed order are at: http://www.nmcourt.fed.us/usbc/proposed-orders</p>
9	Call the appropriate chambers to expedite entry of order if necessary.

Whom to Contact for Help

Please contact the Court's Electronic Information Specialists for assistance at 505-348-2500 or toll-free at 866-291-6805 - select option 3. The help desk hours are 8:30 a.m. to 4:30 p.m., Monday through Friday.