

# How to File A Motion to Dismiss Duplicate Bankruptcy Case (filed in error)

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## Issue Date

March 7, 2011

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## Purpose

This procedure is written to guide the electronic filer through the process of filing a motion to dismiss duplicate bankruptcy case.

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## Background

When a duplicate petition is filed electronically 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 duplicate bankruptcy case within three business days.**

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## Procedure

STEP	ACTION
1	Ensure creditors have been uploaded, and the judge/trustee assignment module has been run.  This is necessary for CM-ECF to assign a judge to the case.
2	Prepare a <b>Motion to Dismiss Duplicate Bankruptcy Case in the case with the higher case number</b> , using the sample order granting motion to dismiss duplicate case as a guide.  The sample order is posted on the Court's website at <a href="http://www.nmcourt.fed.us/usbc/forms-attorney">http://www.nmcourt.fed.us/usbc/forms-attorney</a>
3	Log in to CM/ECF at <a href="https://ecf.nmb.uscourts.gov">https://ecf.nmb.uscourts.gov</a> <ul style="list-style-type: none"><li>○ Click on the <b>Bankruptcy</b> menu option in the blue menu bar.</li></ul>
4	The <b>Bankruptcy</b> menu displays.

STEP	ACTION
	<ul style="list-style-type: none"> <li>○ Click on the <b>Motions/Application</b> hyperlink.</li> </ul>
5	Enter case number and select “Dismiss Case for other reasons (Motion).”  Click on the Next button.
6	Select debtor(s) as party and upload motion pdf file.  Note: remember to view the file first in the browse window to ensure the correct pdf file is uploaded.
7	Review final docket text; if okay, click on NEXT.
8	Draft an order granting the motion and submit it to the appropriate judge.  Instructions for submitting a proposed order are at:  <a href="http://www.nmcourt.fed.us/usbc/proposed-orders">http://www.nmcourt.fed.us/usbc/proposed-orders</a>
9	Call the appropriate chambers to expedite entry of order.
10	The filing fee for a duplicate will not be refunded. See Section 4.5 of the Electronic Filing Procedures at  <a href="http://www.nmcourt.fed.us/usbc/efiling-procedures">http://www.nmcourt.fed.us/usbc/efiling-procedures</a>

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### 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.