

FREQUENTLY ASKED QUESTIONS

If you have a CM/ECF question and cannot find the answer here, please feel free to contact the clerk's office at 303-844-3157. Please contact the PACER Service Center at 800-676-6856 for any technical questions or requests for technical assistance.

1. What documents may be filed using CM/ECF? What documents may not be filed?

Counsel must file all documents with the court using CM/ECF with the exception of ex parte pleadings. *See* Fed. R. App. P. 25(a)(2)(B)(i). In addition, please note that while you may not open a new appeal via ECF you have the option to submit petitions for agency review, petitions for permission to appeal, and original writs using CM/ECF. Notices of appeal will continue to be forwarded by the trial courts. Original and agency matters may be submitted via ECF, in paper form, or via email to clerk@ca10.uscourts.gov.

2. Do I need to send the clerk a paper copy of a document filed through CM/ECF?

No, with the exception of briefs, appendices, and petitions for rehearing en banc. You must provide the court with seven hard copies of any merits brief filed, one hard copy of any appendix, and six hard copies of any petition for rehearing en banc filed. The hard copies of any merits brief and appendix must be received within five business days of the court issuing notice that the electronic versions have been accepted for filing. The hard copies of any petition for rehearing en banc must be received within two business days of filing via ECF (please note any party who receives an exemption from the electronic appendix rule must submit two hard copies of the appendix).

3. Does my document need a certificate of service?

Yes. A certificate of service is required for all filings. The certificate should be the last page of the document.

4. Am I required to serve a copy of my document on the other side, or does my filing through CM/ECF fulfill that requirement?

You may effect service using ECF for all parties who are registered ECF participants. Parties and counsel should note, however, that the duty for confirming service remains with the party serving the pleading. When the opposing party is not an ECF participant, service must be effected through traditional means.

5. The opposing party/attorney is not participating in CM/ECF. How do I serve them?

When the opposing party/attorney is not an active participant in CM/ECF, you must serve them in the traditional manner (generally through service of a hard copy via regular mail). *See* Fed. R. App. P. 25(c)(1) and 10th Cir. R. 25.4. You can determine whether a

case participant can be served via CM/ECF by looking at the Notice of Docket Activity sent to you, by reviewing the docket sheet in PACER, which contains all noticing information for parties/attorneys, or by utilizing the “Service Method Report” available in ECF under the “Reports” drop-down menu.

6. I am a pro se party in an appeal. Am I required/expected to file my documents through CM/ECF?

Pro se parties are not required to file documents with the court using CM/ECF. Should a pro se party wish to do so, however, he/she must file a motion with the court requesting permission to file electronically in a specific case. *See* Fed. R. App. P. 25(a)(2)(B)(ii). A motion is required. An order granting the motion will be a prerequisite to filing via the court’s ECF system. If an order granting the request issues, the pro se party may register to use CM/ECF.

7. Can I view pro se filings through CM/ECF and PACER?

Yes. The clerk’s office will scan all pro se filings and will attach them to the relevant docket entries as PDFs.

8. What is a Notice of Docket Activity?

A Notice of Docket Activity (NDA) is a notice sent via email that is generated when a docket transaction requires that notice be sent to attorneys, case participants, and/or court personnel. NDAs can be generated when a party or attorney files a document with the clerk’s office or when the court enters an order or takes other public action in a case. If you are a CM/ECF participant, your receipt of the NDA is service of that document or order, and registration in the CM/ECF system constitutes consent to receive service through the NDA. Generally, an NDA contains a hyperlink back to the court’s docket sheet and the document in question. When parties receive an NDA they can click on the document and obtain a “free look” at the document. Because there is only one free look, parties should be sure to save the document upon that initial review. In the district court and bankruptcy court systems the NDA is called the Notice of Electronic Filing (NEF).

9. Why did I receive a second Notice of Docket Activity for my filing?

The clerk’s office reviews all attorney filings as part of its quality control procedures. In the event a case manager finds an error or needs to modify the docket text for the event and filing, he/she will make the necessary changes and send a new Notice of Docket Activity to the case participants. If you receive a second Notice of Docket Activity and cannot determine the reason for the second Notice, please contact the clerk’s office.

10. Can I receive a daily summary of all my notices, or am I required to receive a Notice of Docket Activity for every action or activity in my case(s)?

PACER gives you the option of receiving a daily summary or individual event noticing. The default is individual event noticing, but you can change that by updating your account information at the Pacer Service Center under “Manage Your Account.” If you

prefer a daily summary, select “Daily Summary” instead of “Each Transaction” on the “Notice of Docket Activity Frequency” option.

11. I am not shown as an attorney in the case, but I want to file on behalf of one of the parties in the appeal. How do I do that?

The clerk’s office relies on the notice of appeal and district court docket sheet when opening a new appeal and setting up the party and attorney information. In some instances that information is not complete or may change after the appeal is opened, and you may need to be added as an attorney in the case. Until you are added as an attorney in the case, you will not receive NDAs from the court nor will you be able to file any documents other than an entry of appearance. Once you have filed an entry of appearance in the appeal and the court has reviewed that pleading, you will be eligible to receive NDAs and to file further documents in the appeal. Remember, you must register with the PACER service center as an appellate filer and receive a CM/ECF login/password before you can use CM/ECF. In addition, please note that because court review of entries of appearance is required, you will not be able to file as a new attorney until that review is completed.

12. I want to enter my appearance in an appeal. How do I do that?

You must be an authorized appellate filer with a valid CM/ECF login and password in order to file an entry of appearance or any other pleading. Authorized users may complete the entry of appearance form found in the “Forms” section of the court’s website. Save the form to your computer, complete it, and attach it in PDF format to the “Entry of Appearance” docketing event/option in the court’s CM/ECF system. Information on how to docket pleadings is available via the ‘Help’ and ‘Getting Started’ drop-down menus accessible in the top menu bar, as well as in the court’s “CM/ECF User’s Manual.”

13. I want to file a document under seal. How do I do that? First, please review 10th Circuit Rule 25.6, which is new effective January 1, 2019 and governs the filing of sealed materials and motion to file documents under seal. Then, after logging into CM/ECF and entering your appeal number, you must select the “Sealed Pleadings” category. These events were specifically designed to seal all pleadings filed in this category. You may file selected pleadings via this manner. Failure to select the “Sealed Pleadings” category will result in your pleading being filed as a public document. Please contact the clerk’s office if you have any questions.

14. I made a mistake, such as filing in the wrong case or submitting an incorrect document. What should I do?

You cannot delete events or documents, nor can you make changes to completed docketing events. If you have made an error, contact the clerk’s office. Our office will delete the document and modify the docket text to reflect what has been done. You may then re-file the document using the regular CM/ECF filing procedures. Parties and

counsel should be aware the court will not automatically extend the deadline for filing in the event of user error.

15. I am unable to view a pleading in a Social Security case or in an immigration petition for review. Is there a problem?

There is no problem. Electronic access to pleadings filed in Social Security and immigration cases is restricted to the attorneys or parties in the case in order to protect the privacy of the individuals involved. You may review materials from these cases in person in the clerk's office. If you are a party or attorney in the case, please note that you can access documents in these proceedings only through the use of your CM/ECF user ID and password.

16. I represent a party that wants to be added to an appeal, such as an amicus. How do I do that?

After logging into CM/ECF and entering your appeal number, you must select the "Amicus & Intervenor's Motions/Briefs" category. You must select either the "Amicus Curiae Motion" or "Amicus Curiae Brief." If you are moving to intervene in an appeal, you must choose "File a Notice of Intervention" or "Intervenor Motion." You must enter the name of the party(s) filing the pleading when you are docketing the selected event.

17. What help is available for CM/ECF?

The court has created a User Manual to aid attorneys using ECF. The manual is available on the court's website at <http://www.ca10.uscourts.gov>. Additional resources are available via the "Help" and "Getting Started" top menu tabs in CM/ECF. You may also contact the clerk's office for assistance with filing. If you are having difficulty registering for CM/ECF or have questions about your PACER or CM/ECF accounts, you should contact the PACER Service Center at 800-676-6856. If you need to modify or update either your PACER or CM/ECF accounts, you may do so at the PACER website: <https://www.pacer.uscourts.gov>. The PACER Service Center maintains extensive lists of FAQs for both PACER and CM/ECF. You may access them at the PACER website. Please note the court does not provide technical assistance.

18. When is CM/ECF available?

The system is always available (except for routine or emergency maintenance), and you should be able to file anytime. Notices regarding maintenance or other down times for CM/ECF will be posted on our website. Filings completed before midnight Mountain Standard Time will be docketed as of that day. Please note filings received on Saturday, Sunday or a federal holiday will be considered filed on the next business day.

19. I need to file something but I cannot log in. What's going on?

Make sure you have an upgraded PACER account (that is, that you have followed the instructions in this Manual for filing in NextGen) and have applied for filing privileges with the 10th Circuit. Also, make sure you are using the correct login and password. The

10th Circuit became a NextGen court in May 2017. Please note ECF users must register for each circuit separately; registration in another circuit will not allow you to file in this circuit. Similarly, if you have an ECF login/password for a district court, you will also need to register to file in this circuit. Your district court log in will not allow you to file in this court. If you have forgotten your username and/or password, you must contact PACER. The court does not have access to that information.