

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.

Filing and Service Using the Appellate Version of CM/ECF

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

All documents must be filed with the court using CM/ECF with the following exceptions: appendices and addendums. They must be filed in paper format with the clerk. In addition, you may not open a new case using CM/ECF. Notices of appeal will continue to be forwarded by the trial courts. Original proceedings must be submitted in paper form.

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

No, with the exception of briefs and petitions for rehearing en banc. You must provide the court with seven copies of any brief and 18 copies of any petition for rehearing en banc. The hard copies must be submitted within 2 business days.

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 or attorney is not a participant, you must effect service 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 traditional manner. See Federal Rules of Appellate Procedure Rule 25. You can determine who is not participating in CM/ECF by looking at the Notice of Docket Activity sent to you, or by reviewing the docket sheet in PACER, which contains all noticing information for parties/attorneys.

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, he/she must file a motion with the court requesting permission to file electronically in a specific case. An order granting that type of motion will be a prerequisite to filing via the court's ECF system.

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 to the relevant docket entry.

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, 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 for 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. 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 "Filer Account Update." 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, 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.

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

You must be an authorized appellate CM/ECF user with a valid Tenth Circuit 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 “Notice of Appearance Filed” docketing event in the court’s CM/ECF system. Information on how to docket pleadings is available via the ‘Help’ drop-down menu accessible in the top menu bar, in the court’s “CM/ECF User’s Manual.”

13. I want to file a document under seal. How do I do that?

After logging into CM/ECF and entering your appeal number, you must select the “Sealed Briefs and Motions” category. These events were specifically designed to seal all pleadings filed in this category. You may file a sealed motion, response, or brief in this manner. Failure to select the “Sealed Briefs and Motions” 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 involved in the case in order to protect the privacy of the individuals involved in those cases. You may review such files in person at the clerk’s office. *If you are a party or attorney in*

the case, please note that you can access documents in these cases only through the use of your CM/ECF filer ID and password; you will not be able to access them through your PACER 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/Briefing” category. You must either select the “Motion to Become an Amicus Curiae” or “File an Amicus Curiae Brief.” If you are moving to intervene in an appeal, you must choose “File a Notice of Intervention.” You must enter the name of the party(s) filing the pleadings when you are docketing the selected event. You will not receive an NDA after submitting these events. An NDA will be sent after the court reviews the submitted pleading.

17. What help is available for CM/ECF?

The court has created a user manual to aid attorneys using ECF. That manual is available on the court’s website at www.ca10.uscourts.gov. In addition, we have created training modules which are available in both interactive and printable form. Those modules can also be found on the court’s website under the “Court Docket and E-filing” tab. We strongly encourage counsel to review all available training modules before filing in the ECF system. Finally, parties and attorney should review the court’s General Order on ECF dated March 18, 2009. That order is available on the 10th Circuit website as well.

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://pacer.psc.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.

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 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.