

**FIRST MEETING WITH  
ATTORNEY ADVISORY COUNCIL**  
**MAY 3, 2002 1:30 p.m. - 3:30 p.m.**

**Attendees:**

**Attorney Advisory Council Members:**

Janice Valdez Stone Leyton & Gershman	Wendell Sherk Sherk & Swope, LLC	Michael McClafin Thompson Coburn LLP
Fredrich J. Cruse The Cruse Law Firm	T. J. Mullin Law Office of T.J. Mullin	Peter Lumaghi Office of the U. S. Trustee
Steven Goldstein Goldstein & Pressman, P.C.	Susan Reiss Bryan Cave, LLP	David Warfield Husch & Eppenberger
Bill Guelker Chapter 13 Trustee's Office	John V. LaBarge, Jr. Chapter 13 Trustee	Janet I. Blauvelt Dysart, Taylor (by telephone)
Karen Miller Spain, Merrell & Miller (by telephone)		

**Court Members:** Dana McWay, Clerk of Court, Janice Wells-White, CM/ECF Project Manager, Beth Pfister, Doug Hardy, CM/ECF Training Coordinators

**Court Attorney Advisory Committee:** Judge Schermer, Diana Durkee-August, Bill Wolfenbarger, Roe Blankinship, Wynne Abernathy, Susan Spraul, Chris Keefe, Sandy Louis

The following issues were discussed at the meeting:

**A. Technical Issues**

Court's Handouts - The green handout sheet entitled "Electronic Case Filing Hardware and Software Requirements" should be revised to include the "word processing software" under the "Recommended System Requirements" heading. Some felt the minimum requirements were understated and should be revised. Minimums are specified by the Court's Administrative Office (Washington D.C.) and will allow the system to operate, but will not provide optimal performance.

Handouts such as "Is Your Office Ready" are helpful to law firms.

A suggestion was made that the Court provide a demonstration of dial-up options and operating time differences to show access options via modem and DSL.

Netscape / AOL - A question arose about the compatibility of Netscape Navigator 6.0

with ECF software. Most current versions of Netscape allow use of ECF system, but functionality of newest version remains open. Internet Explorer may have compatibility problems with the ECF software and is not recommended. AOL may function with ECF. To date, however, it has not been workable.

E-mail notices - The group discussed the volume of e-mail notices received as being one of the major challenges in using ECF. A recommendation was made to explore use of reports as a substitute method of receiving e-mail notification of filed documents. This may be an issue for training in order to show attorneys their options when using the system.

PDF files - Group discussed the basic function of PDF documents, including limitation that data extraction is not available. Also discussed differences in size of PDF files created by scanning and by conversion from another program e.g. Word or WordPerfect. Scanned documents are like pictures and create substantially larger files.

PDF document conversion options were discussed. Word Perfect 9 (and versions of Word), allow conversion to PDF. Adobe Reader, but not Writer, can be downloaded free from the internet. It was recommended that the Court add information about PDF file usage to its training and software requirement handouts. The more information provided, the better.

US Trustee & Trustee needs - The U.S. Trustee's Office discussed its need to be able to extract data from the system. Also stated a need for the panel trustees to be able to "batch file." The U.S. Trustee seeks to file certain reports, such as No Distribution and 341 Minute Report as one-line entries into all applicable cases at one time.

DSL - Council discussed options for accessing ECF on-line. DSL is the preferred method of data transmission and user time and satisfaction are in direct proportion to speed of access to the system. Access to DSL is not available in all areas, and some common areas, such as Creve Couer, have limited access. Some areas in the outlying divisions of the Eastern District may not have access to a DSL.

Scanners - The quality of law firm scanners has to be excellent for an acceptable image to be transmitted through ECF.

Hardware and software cost issues - Group concluded that a law firm can spend \$3,000.00 or less to get set up for ECF. But some observed that a law firm may be misguided if it purchases an inexpensive computer system. While a law firm can purchase a \$700.00 computer that will work, if it does not allow for modifications, it may prove inadequate. You get what you pay for.

What is the Court's role in requiring specific computer equipment for practitioners?

The participants felt that the Court could make recommendations on the types of hardware required to participate in ECF. Yet, the practitioners should be responsible for

designing and implementing their systems. Group generally felt the job of becoming educated on computer options is the responsibility of the user and not the court. However, Clerk's office may have an interest in ensuring users' systems are adequate for ECF in order to avoid frequent calls for help or user-frustration.

Will ECF be mandatory? Court explained it does not plan to have all attorneys mandatorily file electronically on a start date. Court could not train everyone in sufficient time to have a universal "start" date. Court will determine how to phase in eventual mandatory usage.

Incentives for use

- It was suggested that attorneys using ECF for Chapter 13 filings in Kansas City are allowed a \$200.00 increase per case in additional attorneys' fees as an incentive to use ECF.
- Reducing charges for viewing files online may be an incentive to go to ECF.
- Credit/debit card payment of filing fees makes filing easier. It was suggested the court include its credit/debit card flyer in the ECF training handouts to encourage credit/debit card use even before ECF. NOTE: Office Chief Disciplinary Counsel states it is not unethical for attorneys to collect mileage points or other incentives on a credit card used for payment of client filing fees.

Is there down time for maintenance or power failure? - It was stated that the Western District does not have down time and its system seems very reliable. However, minimal down time will be essential for system maintenance. It was suggested that the Court needs to consider procedures for missed deadlines due to the system being down.

**B. Training Issues**

Court explained overall plan to provide training for attorneys and office staff and sought input on various details, such as where training should take place. Council recommended training should not take place one-on-one at each law firm but should be done at the Court or off-site perhaps in a large law firm's training facility where the law firm's trainers and technical staff can be trained to provide further training for the law firm.

Timing - 2 to 3 hour training sessions are OK. Longer sessions may not be as effective.

Important Considerations - Suggest the following items be considered when considering Court's training plan:

- 1) law firm time preference;
- 2) on-going training on a continuing basis, (e.g. for new staff);

- 3) whether training should be part of admission to bar of the bankruptcy court;
- 4) implications of making ECF training mandatory. For example,
  - will attorneys need to complete the training in order to acquire their password or can staff attend training instead? Will there be shorter versions of training just for attorneys while staff really learn how to use the system?
  - Will practitioners from other districts with ECF need to go through training? Can training be done over the phone or remotely? Council's preference is for a proficiency test to permit waiver of training for existing ECF users along with the option of phone training.

Manuals - The development of refresher manuals was suggested so that law firms have some resource to check when filing, especially for those who will not file frequently.

Overall recommendation is that training procedure should be simple with a support manual and possibly a CD containing the instruction. Discussed advantages of providing CD rather than trying to put manuals on the Court's website because of the possible size of such files. Manuals containing only straight text would be feasible but extensive graphics will slow down website. It was recommended for the Court to create CD's for any required Court forms.

#### On going & basic computer training needs

One-on-one training may be helpful after formal training done in groups. Such training may be provided through help-line rather than as formally scheduled training. For large firms, recommendation is to have a member of the law firm's staff "certified" as an ECF "trainer" to train all the firm's employees. A train-the-trainer program for law firms has already been incorporated into the Court's training plan.

Remedial computer training may be necessary for some users but Council felt this should be the job of the law firm although the Court might provide training resources on CD's or other online help. "Skills Checklist" is a good tool for making users aware of what they need to know or learn. Recommend on-line refresher training may be helpful for such things as showing how to create or convert to PDF documents.

Control over password and use of ECF - Concern was expressed about law firm staff's ability to file cases or documents with an attorney's password. Firms must establish internal controls to ensure filings are made through ECF only with attorney's approval.

One suggestion would require a signed paper by attorney prior to sending anything electronically. Another suggestion was that the attorney maintain their password and send all transmissions. This may be impractical in large practices.

Suggestion that the court alert attorneys to these issues but that job of managing internal office procedures is responsibility of law firms, not the Court. This subject may be appropriate for a Bar Association CLE program.

Other access/user issues - Discussion about how pro hac vice counsel can file. Suggestion is that out-of-area counsel may have to hire local counsel.

Will bankruptcy petition preparers' use ECF? The committee does not want to encourage this. Petition preparers are not allowed to file, but only prepare documents, and since they can't collect filing fees, use of ECF is not recommended.

Pro se filers and use of Court facilities for attorneys:

Scanners and PCs could be set-up in Court lobbies / in-take area. Council recommends those who are slow to register for ECF will see benefits if they have to scan documents. Some concern was expressed about the time and problems involved if pro se filers are required to do their own scanning and linking of documents. Court staff will spend more time assisting than if Court undertook the scanning.

Miscellaneous.

Help Desk would be necessary. Recommend consistency of same people working the help desk in order to develop a relationship with the person(s) assisting attorneys and their staff. Attorneys indicate some have become familiar with a contact person in Kansas City who they always call to help.

Concerns were expressed regarding the serial numbering of a bulk filer's petitions and mega case, multiple debtor petitions. Attorneys want to be able to have case numbers assigned to such cases in sequence. The present solution requires users to file at a time when others are not using the system, (i.e. 2:00 a.m.) but confidence was expressed that a solution could be developed and that "batch filing" may solve some problems, although batch filing will not address issues in filing new petitions in sequence.

Preparation for Next Meeting.

Signature Issues to be discussed at the next meeting.

Handouts were distributed of the issues to be discussed at future meetings.

Friday afternoons, approximately every three weeks was good timing for future meetings.

A letter will be sent to all scheduling the next meeting. It was recommended we consider sending letters to council members electronically.