CHAPTER 12

ADVERSARY CASE OPENING



Opening a New Adversary Proceeding

Summons

ADVERSARY PROCEEDING CASE OPENING

Opening an adversary proceeding involves entering the necessary information regarding the plaintiff and defendant, along with basic statistical data. The lead event (usually the complaint) is incorporated into this process and will not need to be docketed separately. This module demonstrates the steps to take to open an adversary proceeding in CM/ECF.

- **STEP 1** Click the <u>Adversary</u> hypertext link on the CM/ECF Main Menu Bar.
- **STEP 2** The **Adversary Events** screen displays.
 - Click the Open an Adversary Proceeding hypertext link.
- **STEP 3** The **Case Information** screen displays. (See Figure 1)

SECF	Bankruptcy	Adversary	Query	Reports	Utilities	Search	Logout
Open Adversa	ary Case						
REMINDER: S	EE RULE 700	07.1(b) REG	ARDING	CORPOR	ATE OWN	ERSHIP	STATEMENT
Important: Case T	ype must always	s be ap. To file	a mp case,	go to Advers	sary, Open a	Miscellane	ous Proceeding.
Of	fice Jacksonville	~					
Case t	ype ap 💌						
Date f	iled 7/15/2009						
Compl	aint y 🚩						
Next Clear							

Figure 1

- Solution \mathbf{V} Click the down arrow \mathbf{V} to reveal the list of Office (division) options. Select the same division to which the related general case is assigned.
- The Case Type defaults to ap (adversary proceeding). No action is necessary.
- The current date is displayed in the **Date Filed** field. This date cannot be changed.

- Solution Click the down arrow $\mathbf{\nabla}$ to reveal the list of **Complaint** options: either **y** for yes or **n** for no. This field signifies the lead event for this proceeding. If filing something other than a complaint, such as a Notice of Removal, change the **y** to **n**.
- Click [Next] to continue or [Clear] to re-enter the information.

STEP 4 The **Associated Cases** screen displays. (See Figure 2)



Figure 2

- Enter the Lead Bankruptcy Case Number (office codeyy-bk-nnnn format).
- The Association Type field defaults to adversary. No action is necessary.
- Solution Click [Next] to continue.

Note: If the system prompts that the base case number entered is not a valid case, click the **[Back]** button and re-enter the case number.

STEP 5 The **Search Plaintiff** screen displays. (**See Figure 3**)

∃ECF	Bankruptcy	Adversary	Query	Reports	Utilities	Search	Logout
Open Adversa	ry Case						
REMINDER: SI	EE RULE 700	7.1(b) REG	ARDING	CORPOR		ERSHIP S	TATEMENT
Search for a plainti	iff						
SSN / ITI	N	Tax ID	/ EIN				
Last/Business nan	ne						
First Name							
Middle Name							
Search Clear							



- Enter a social security number, tax identification number, or last/business name to search for the party to be added to the case. (The first name and/or middle name can be included to narrow down the search.)
- Click [Search] to continue.

STEP 6 The **Party Search Results** screen displays. (See Figure 4)

SECF	Bankruptcy	Adversary	Query	Reports	Utilities
Search for a plain	tiff				
SSN / I	IIN	Tax II	/ EIN		
Last/Business na	ime				
First Name					
Middle Name					
Search Clear					
Party search resu	llts				
US Random Bank,	123 Wherever Road	d, Anytown, FL			
Select name f	rom lict	Croate new party			
Select name i		Create new party			

Figure 4

If the system finds the correct party, highlight the party's name in the Party Search Results window, and click Select Name from List to add the party to the case, and then proceed to Step 7.

OR

If the system <u>does not</u> find the party with the search criteria entered, it will display a message No person found (See Figure 5)

Search for a plaintiff SSN / ITIN Tax ID / EIN Last/Business name First Name Middle Name Search Clear Party search results	SECF	Bankruptcy	Adversary	Query	Reports	Utilities
Last/Business name First Name Middle Name Search Clear Party search results	Search for a plaintif	f				
First Name Middle Name Search Clear Party search results	SSN / ITIN	N	Tax ID	/ EIN		
Middle Name Search Clear Party search results	Last/Business nam	e				
Search Clear Party search results	First Name					
Party search results	Middle Name					
	Search Clear					
	Party search results					
No person found.	No person found.					
Create new party	Create new party					



Click Create New Party to add the party to the case (if the party was not found or does not match any of the system's results).

SECF	Bankruptcy	Adversary	Query	Reports	Utilities	Search	Logout
Plaintiff Info	rmation						
US Random Ban	k SSN / ITIN:U	Jnknown					
Office			Address 1	123 When	ever Road		
Address 2			Address 3				
City Any	/town		State	FL	Zip 34123		
County	*		Country				
Phone			Fax				
E-mail							
Party text							
Role in Bankrup	tcy Case Creditor	r		*			
Attorney	Alias Cor	porate parent / af	filiate	Review	Add all attorne before clicking		d corporate parents or affiliates atton.
Submit Cance	Clear						
Figure 6							

STEP 7 The **Party Information** screen displays (**See Figure 6**).

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Note: If you have selected a party from the party list, you will not be able to change the social security number/tax id number field; however, you will be able to modify other field information.

Enter or verify the party name. It is important to include the complete mailing addresses of the plaintiff and defendant for noticing purposes.

Important: Specify applicable **[Role in Bankruptcy Case]** type (Creditor, Debtor, etc.) The system will not allow you to continue without specifying the bankruptcy case role type.

The Party Text box can be used to add an additional descriptive nature to the party's name. For example: If the plaintiff was General Foods Store, a division of General Motors Corporation, enter: General Foods Store in Last name field, and enter: a division of General Motors Corporation in Party text field.

- Click [Attorney] to add yourself as the plaintiff's attorney.
 - Enter your last name or bar id number.
 - Click [Search] to continue.
 - The **Attorney search results** screen displays.
 - Solution Click to highlight the attorney name.
 - Click [Select name from list] to continue.

Note: if you are representing multiple parties, you will need to add yourself as the attorney for <u>each</u> plaintiff-party you are representing.

The Attorney Information screen displays. (See Figure 7)

SEC	Bankruptcy	Adversary	Query	Reports	Utilities	Search	
Attorney In	formation (Party US R	andom Bank,)					
Alyson Joh	nson Bar Id:Unknown	Bar Status:Unk	nown				
Office		Addr	ess 1 135	West Central E	Boulevard		
Address 2	Suite 950	Addr	ess 3				
City	Orlando		State FL				
Zip	32801	Co	untry				
Phone			Fax]		
E-mail	E-mail alyson_johnson@flmb.uscourts Lead attorney yes 💌						
Add attor	ney Cancel attorne	ey Clear the	Party screen a	omey or Cancel and add other at ation for this par	tomeys, add ali		

- If information is correct, click [Add attorney].
- The Party Information screen displays again (See Figure 6).
- If the party has aliases, click [Alias] to enter the alias information. The Alias screen displays. (See Figure 8)

Figure 7

CM	ECF Bankru	uptcy Adversary	/ Query	Reports	Utilities	Search	Logout
Ali	as Information (Party US	S Random Bank,)					
	Last/Business name	First name	Middle name	Generation	Role		
1					aka 💌		
2					aka 💌		
3					aka 💌		
4					aka 💌		
5					aka 💌		
	Add aliases Clear Clio	ck the Add aliases buttor	n to return to the Pa	arty screen and	submit all in	formation for this	party.



- Enter up to five aliases for this party.
- Solution Series Ser
- Click to select the appropriate Role type for each alias entered.
- Click [Add aliases] to submit.
 - If you make a mistake during the addition of aliases, click [Clear] to begin again.
 - If you have more than five aliases to add for this party, click [Add aliases] to add the first five. Then click [Alias] again to submit additional aliases. This may be done as often as necessary until all aliases are added to the system.
- Review information by clicking the **[Review]** button to verify the information for the party being added.
- When all information is correct, click [Submit] to add the party to the case and database.
- The Search Party screen displays again. You may either add another Plaintiff or click [End plaintiff selection] to proceed to add Defendant(s) or other interested parties.

REPEAT Steps 5, 6 and 7 until all Plaintiff(s), Defendant(s) or other interested parties have been added to the system.

Note: When adding a defendant, <u>DO NOT</u> associate an attorney for the defendant. An attorney for a defendant will be added to the case upon the filing of a responsive pleading.

- Once all parties have been added to the system, click [End Party Selection].
- STEP 8 The Adversary Statistical Data screen displays. (See Figure 9)

SECF	Bankruptcy	Adversary	Query	Reports	Utilities	Search	Logout	
Open Advers	ary Case							
REMINDER: S	EE RULE 70	07.1(b) REG	ARDING	CORPOR			STATEMENT	
Add judge		*						
,								
		Pri	imary natu	re of suit				
Party	code 3 U.S. not a							*
Rule 23 (class ac	tion) n v	Sec	cond natur	e of suit				
Kule 25 (class ac	tion) 🗆 🔪	noi	ne					*
Jury don	nand None 💉	🗩 🛛 Th	ird nature	of suit				
Jury den	Tand None -	noi	ne					*
Demand (\$:000)	For	urth nature	e of suit				
Demana (o		noi	ne					*
State	e law 🛛 🖌	Fif	th nature o	of suit				
		noi	ne					*
Next Clear								

Figure 9

- Click the down arrow ▼ to reveal the list of Judge options. Select the Judge that is associated with the Main Case to which the Adversary refers.
- Solution Click the down arrow $\mathbf{\nabla}$ to reveal the list of **Party Code** options. If the U.S. is a plaintiff or a defendant in this adversary proceeding, click to highlight the correct party code to so indicate. If the U.S. is <u>not</u> a plaintiff or defendant in your case, accept the default **US not a Party**.

- Solution Click the down arrow $\mathbf{\nabla}$ to reveal the list of **Rule 23** (Class Action) options. The default is *n* for no. If the adversary being filed is a Rule 23 (Class Action) proceeding, change the default to *y*.
- Click the down arrow ▼ to reveal the list of Jury Demand options. Those options are Both, Defendant None, Plaintiff. The system defaults to none. If you are requesting a jury trial in your attached complaint, so indicate in this field.
- Demand: If there is a dollar demand in the complaint, enter the (\$000) amount to the nearest thousand (i.e. for a demand of 5,000 enter 5, leave off the 000). Note: DO NOT use dollar signs or commas.
- Click the down arrow to reveal the list of State Law options. The default is n for no. If the adversary being filed relates to a state law, change the default to y.
- Click the down arrow ▼ to reveal the list of Primary Nature of Suit options. Click to highlight the primary nature of suit that applies to the instant case.

Important Note: If there is more than one **Nature of Suit** and one is objection to discharge (727), choose 424 (*Object or Revoke a Discharge pursuant to 11 U.S.C. Section 727*) here.

- Solution Click the down arrow ▼ to reveal the list of Secondary Nature of Suit options. Click to highlight the secondary nature(s) of suit that apply to the instant case. You may select up to five total nature of suit options.
- Click [Next] to continue.

STEP 9 The PDF Document Selection screen displays. (See Figure 10)



Figure 10

Click [Browse], then navigate to the directory where the appropriate PDF file is located.

Verify you have selected the correct document by right clicking on the highlighted filename and select **Open** to view the image in Adobe Acrobat. Once verified, close the PDF image and select **Open** from the "Choose File" pop-up screen to associate the PDF file with the docket entry.

- The Attachments to Document option defaults to No. If you have attachments to the document, click the Yes radio button to indicate there are attachments. (Refer to module: *Attachments to Documents* in Chapter 10 for instructions, if necessary).
- Click [Next] to continue.

STEP 10 The **Fee Information** screen displays (**See Figure 11**)



Figure 11

- Select the option that applies to the Plaintiff's position in the bankruptcy case.
- Click [Next] to continue.
- **STEP 11** The **Filing Fee** screen will appear depending on the selection from the **Fee Information Screen**. This is a fixed amount that cannot be changed.
 - Click [Next] to continue.
- **STEP 12** The **Final Docket Text** screen displays (**Figure 12**)



Figure 12

- A prefix box and supplemental text box window are available to add more detail to the docket text.
- Click the down arrow ▼ to display the prefix options. Note: You may also type the first letter of the prefix to immediately move to the list of prefixes that begin with a particular letter (i.e.: Verified type "v"). Prefix Options to choose from are:

Addendum to	Ex Parte	Joint	Sixth
Agreed	Expedited	Limited	Status
Alias	Fifth	Omnibus	Supplemental
Amended	Final	Opposition	Supporting
Amendment to	First	Pluries	Third
Certified	First Amended	Pre-Trial	Third Amended
Conditional	Fourth	Proposed	Third Party
Corrective	Fourth Amended	Sealed	Trial
Cross	Interim	Second	Unilateral

	Emergency	Intervenor's	Second Amended	Verified
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- A supplemental text box window is provided to add more detail to the docket entry.
- Click [Next] to continue.

STEP 13 The **Final Approval** screen displays.

- Werify the Final Docket Text. Read the Attention!! message.
- If the Final Docket Text is <u>correct</u>:
 - Click [Next] to continue and officially submit the document.
- If the Final Docket Text is <u>incorrect</u>:
 - Click the browser [Back] button to find the error(s) and proceed with the event.
- To abort the event and begin again, return to **Step 1**.
- If no filing fee is required, proceed to **Step 17**.

STEP 14 The **Electronic Payment** screen displays. (See Figure 14).

[Note: This screen is a pop-up. In order for this to function properly, you will need to disable any pop-up blockers you may have enabled.]

Please note: The final docket entry for adversary opening processes slower than normal transactions. Wait for it to complete before paying filing fees.

Chttps://ecf-train	.flmb.uscourts.gov/?76	7803830708455 - Electronic Paymer	nt 🔳 🗖 🔀
Do NOT use the b	s window with the 'x' at	uring the payment process.	<u> </u>
Date Incurred	Debtor	Description	Amount
2009-07-15 16:30:31	US Random Bank v. Common	Complaint(6:09-ap-00259-ABB) [cmp,cmp] (250.00)	\$ 250.00
		Total: \$ 250.00	
	Pay Now	Continue Filing	>



- A summary of current charges appears showing the *date incurred*, *description* and *amount*.
- The user has the option to [Pay Now] or [Continue Filing]. Although the court recommends that you pay as you go, you may pay at the end of each CM/ECF session.

Note: If you receive **ANY** messages/warnings during the payment process, **IMMEDIATELY** contact the help desk in the appropriate division. **DO NOT** make further attempts to pay fees without instruction from the Clerk's office. Also, **DO NOT** use the **BACK** button during the payment process. Failure to take these precautions may cause you to be charged twice for the same fee.

- Select [Continue Filing] if you are filing multiple feebased events and want to submit one payment at the end of each CM/ECF session. (You can also combine other fee-based filings before submitting payment). Proceed to Notice of Electronic Filing and Automatic Summons.
- If you select **[Pay Now]**, proceed to **Step 15**.

STEP 15 The **Payment Information** screen displays. (See Figure 15)

C https://qa.pay.gov/ -	Online Payment - Windows Internet Explorer	×
		^
Online Payment Step 1: Enter Paymer	nt Information Return to your originating application	
) (ex: American Express, Diners Club, Discover, Mastercard, VISA)	
Required fields are indic	cated with a red asterisk *	
Account Holder Name:	Alyson Johnson *	
Payment Amount	\$250.00 *	
Billing Address:	135 West Central Boules *	
Billing Address 2:		
City:		Ξ
State / Province:	<u>·</u>	
Zip / Postal Code:	32801	
Country:	United States 👻 *	
Card Type:	* VISA @@@ AVIEX @@_ @@@@#	
Card Number:	* (Card number value should not contain spaces or dashes)	
Security Code:	* Help finding your security code	
Expiration Date:	*/ •	
Select the "Continue with	Plastic Card Payment" button to continue to the next step in the Plastic Card Payment Process.	۲
	Continue with Plastic Card Payment Cancel	
		~

Figure 15

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The fields marked with a red asterisk are mandatory fields. Your name, street address and zip code are automatically filled in based on the information in your ECF account.

It is not necessary to add your city and state unless you prefer this information to appear in your confirmation receipt.

Click the card type. The court accepts the following credit cards:

Visa Master Card American Express Discover

- Senter the credit card number.
- The security code is required. The transaction will fail if the security code from the back of the card is not entered correctly.
- Select the card's expiration month from the drop down list and enter the expiration year.

- Werify the amount being paid and click [Continue with Plastic Card Payment].
- **STEP 16** The **Payment Summary and Authorization** screen displays. (See Figure 16)

https://qa.pay.gov/ - Online Paym	ient - windows internet Explorer	الله ا
Online Payment Step 2: Authorize Payment		Return to your originating application 1 2
Step 2. Autorize Payment		1 2
Payment Summary Edit this information		
Address Information	Account Information	Payment Information
Account Holder Name: Alyson Johnson	Card Type: Visa	Payment Amount \$250.00
Name: 135 West Central Billing Address: Boulevard Billing Address 2:	Card Number: *********1111	Transaction Date 07/15/2009 16:32 and Time: EDT
City:		
State / Province:		
Zip / Postal Code: 32801		
Country: USA		
Email Confirmation Receipt		
To have a confirmation sent to you upon co	mpletion of this transaction, provide an email a	ddress and confirmation below.
Email Address:		
Confirm Email Address:		
CC:		Separate multiple email addresses with a comma
Authorization and Disclosure		
Required fields are indicated with a re	dasterisk *	
I authorize a charge to my card account for	the above amount in accordance with my care	d issuer agreement. *
Press the "Submit Payment" Button only	once. Pressing the button more than once co Submit Payment Cancel	ould result in multiple transactions.

Figure 16

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- Verify information and if acceptable, click the Authorization box.
- If you would like to receive a confirmation e-mail, key in your e-mail address in both fields.

Note: In testing we have found that certain keystrokes, such as hitting the enter key twice, will cause you to receive duplicate confirmation e-mails even though you have only made one payment. Best practice is to click the **[Continue]** and **[Make Payment]** buttons with your mouse.

Click [Submit Payment].

STEP 17 The **Transaction Receipt** screen displays. (See Figure 17)

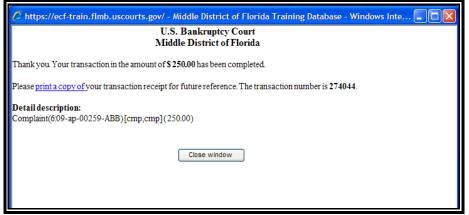


Figure 17

- You can print this screen by clicking on the <u>print a copy of</u> hypertext link to save the transaction for future reference. If you provided your e-mail address, the confirmation e-mail you receive will contain the same information.
- Click [Close Window] to continue.

Notice of Electronic Filing and Automatic Summons

Once the final docket entry is submitted, the **Notice of Electronic Filing** screen displays. The Notice of Electronic Filing screen provides three separate links to information, (See Figures 18 - 20).

Adversary Link (See Figure 18)

The Notice of Electronic Filing certifies that the filing has been received electronically by the court.



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Figure 18
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- The case number assigned to the adversary is displayed
- The document number assigned to the complaint is displayed.
 - Clicking on the adversary case number hypertext link will present the *Docket Report* for this case.
 A PACER account is necessary to view this link.

- Solution Clicking on the document number hypertext link will present the *PDF Image* of the document just filed.
- Scroll down to see participants who have and have not received electronic noticing on this case.
- To print a copy of this notice click the browser [**Print**] icon.
- To save a copy of this notice, click [File] on the browser menu bar and select Save Frame As.
- You may also save the notice through the browser File/Save option.

Automatic Summons Link (See Figure 19)

At the same time the complaint is docketed, the CM/ECF program will automatically create and issue a summons. It is the responsibility of the electronic filer to print the automatically issued summons and serve it according to the Federal Rules of Bankruptcy Procedure.



Figure 19

A link to Summons Issued appears on the Notice of Electronic Filing below the entry for the Complaint.

- Click on the <u>Summons Issued</u> hyperlink. The issued summons is displayed in html format.
- Review the caption of the summons. Verify the Bankruptcy case information is correct. Verify that all parties to the summons are correct. **Please note**: The automatic summons displays a maximum of 2 plaintiffs and 2 defendants. If there are additional parties to the adversary, they will be displayed on a separate page after the summons.
- (W) If parties were not input correctly during case opening or if an incorrect related Bankruptcy case was entered, do not use the automatic summons. Immediately contact the help desk and ask them to make the necessary corrections to the case information. An Alias Summons will be required. It will be the responsibility of the electronic filer to submit an Alias Summons to the Court for issuance. To have an Alias or Pluries Summons issued in Tampa, Fort Myers and Orlando Division cases, e-mail the pdf image to the Help Desk in which the case is filed. To have an Alias or Pluries Summons issued in a Jacksonville case, docket the Alias or Pluries Summons using the Proposed Order event under the Miscellaneous category.
- If the summons is correct, **Print** or **Save** to a file.
 - Check your browser font setting. Unusual fonts may cause the text on the summons to wrap. The Court recommends using Times New Roman as your web page font and Courier New for your plain text font. You can check your font settings by clicking on Tools in your browser tool bar and then clicking the Fonts tab.
 - Check your browser page setup. There should be nothing in the Header and Footer settings.
 - At the bottom of the summons is a link to a blank Certificate of Service page. This can be printed and used to file proof of service of the summons with the Court.

- If the case has more than two plaintiffs and two defendants, the additional caption will print on a second page. This page should be included in service of the summons and complaint.
- Serve the summons and complaint in compliance with the Federal Rules of Bankruptcy Procedure. **Please note:** In cases before Judge Proctor, Judge Jennemann, Judge Williamson and Judge May, the Court will prepare a Notice of Pretrial Conference. The notice must be served along with the summons and complaint. After service is complete, file the Certificate of Service.

Related Bankruptcy Case Link (See Figure 20)

The third link on the Notice of Electronic Filing is to the docket of the related Bankruptcy case (See Figure 20).

SECF	Bankruptcy	Adversary	Query	Reports	Utilities	Search	Logout
				U.S. Ban	kruptcy Cou	rt	
				Middle Di	strict of Flori	da	
Notice of Electronic	Filing						
The following transa Case Name: Case Number: Document Numbe	Julia Alltoo Cor <u>6:09-bk-00293</u>	mmon and James			009 at 4:30 P	M EDT and t	filed on 7/15/2009
Docket Text: Complaint by US R.	andom Bank agair	nst Julia Alltoo C	ommon <u>6:0</u>	19-ap-00259-4	<u>ABB;</u> Nature o	of Suit(s): 65	(Dischargeability - other). (Johnson, Alyson)
The following docur	nent(s) are associa	ated with this trar	isaction:				
6:09-bk-00293 No	tice will be elect	ronically mailed	l to:				
6:09-bk-00293 No	tice will not be e	lectronically m	ailed to:				
Alyson Johnson on 1 135 West Central B Suite 950 Orlando, FL 32801		US Random Ba	nk				

Figure 20

- To view the docket of the related Bankruptcy case, click on the case number hyperlink.
- A reference docket entry is made to the Bankruptcy case.

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Notice of Pretrial Conference

Judge Funk, Judge Jennemann, Judge May & Judge Williamson

Judge Funk, Judge Jennemann, Judge Williamson and Judge May each schedule a pretrial conference at the time the summons is issued. The clerk's office will prepare a notice of pretrial conference and mail it to the attorney for plaintiff. It is the responsibility of the attorney to serve the notice on the parties to the complaint.

STEP 1 Upon receipt of the notice of electronic filing of the Notice of Pretrial Conference, click the hyperlink to the document (See Figure 21)

Notice of Electronic Filing		
The following transaction was re- and filed on 3/3/2005	ceived from Delamater, Connie entered on 3/3/2005 at 11:02 AM EST	
Case Name:	United States of America v. Voss	
Case Number:	8:05-ap-00026-TEB	
Document Number:	4	

Figure 21

- **STEP 2 Print** the Notice and **serve** with a copy of the summons and complaint upon the parties to the complaint.
- **STEP 3** Promptly file a **Certificate of Service** with the Court.