

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA**

**CM/ECF USERS' ADVISORY GROUP  
JANUARY 21, 2000 MEETING  
MINUTES**

The first meeting of the CM/ECF Users' Advisory Group (UAG) was held on Friday, January 21, 2000. The meeting, which was held via videoteleconference at the court's Alexandria, Norfolk and Richmond facilities, commenced at 2:00 P.M. and concluded at 3:35 P.M. The following persons were in attendance at the meeting: Don King, Tina McMillan, Robert Weed, Frank Santoro, Roy Lasris, Barry Spear, Debera Conlon, Charles Krumbein, Gregg Nivala, William Parkinson, Jr., Peggy Grivetti, Debbie Lowe, Chuck Miller, Pat Woodhouse, Renee Mitchell-Paxton, Barry Wells and Bill Redden.

Bill Redden made some introductory remarks and thanked the UAG members and court representatives for their willingness to become involved with the UAG process. Bill noted that Judge Adams is the judicial officer court representative to the UAG. Bill also noted that the Administrative Office of the U.S. Courts (Administrative Office) is responsible for the implementation of an ambitious CM/ECF expansion schedule to all bankruptcy courts, district courts and courts of appeals by 2003. Three versions (*i.e.*, releases) of CM/ECF are scheduled for release during this three-year period as well. In addition, Bill referenced his letter of December 16, 1999, which sets out the purpose of the UAG: First, to provide input to the court's representatives with information about users' concerns and problems in using the CM/ECF system. Second, to receive comment from users, convey information of interest to the UAG members and disseminate information to users concerning the CM/ECF system. Bill advised that he and Barry Wells had met recently with Administrative Office staff (on January 5) to obtain information that the court could take into account and reasonably rely upon for planning purposes (*see below*).

Barry Wells provided an update on several items of interest, as follows:

1. The Administrative Office has committed itself to a March 31, 2000, transmittal of Release 1 of CM/ECF to the five prototype Bankruptcy Courts and to the Administrative Office's Phoenix Independent Testing Center. The five prototype Bankruptcy Courts currently are using a pre-Release 1 version of CM/ECF. (Summary and detailed information handouts of Release 1 features were provided to the UAG participants at the meeting. Statistical information handouts were provided as well.)
2. The court's CM/ECF databases are housed currently on server equipment located at the Administrative Office. The Administrative Office has committed to the decentralization of these databases to the prototype Bankruptcy Courts. The court is scheduled to receive two Compaq 6000 servers with the Court's CM/ECF databases by early Spring 2000. [The Administrative Office recently set May 15, 2000, as the target release date.] Both Bill and Barry, in their discussions with Administrative Office staff, have made these staff members aware of the

importance of this action taking place soon. It is anticipated that installing the server equipment with the court's databases, at Richmond, significantly will speed up access to the CM/ECF databases. Barry also noted that timely access to these databases could be increased through the use of broad band-width technologies (*i.e.*, cable modems, Digital Subscriber Lines or DSL, T1 lines). Barry advised that DSLs were preferable to cable modems since the former were scalable and could provide higher speed access based upon CM/ECF registered user requirements.

3. The Federal Judiciary is creating a Public Access Network on which the WebPACER application will run. Through the use of WebPACER, case information will be provided on the Internet. The Judicial Conference of the United States (Judicial Conference) has mandated that an access fee of \$.07 per page be assessed for access to PACER service on the Internet. The fee applies to court data obtained electronically from the public dockets of individual case records in the court. [The \$.07 per page rate was calculated so that if the same PACER activities were performed on an Internet connection as an existing PACER dial-up connection, the total charges for each connection, on average, would be the same or less.] The revenue generated from this fee is used to maintain and improve the Federal Judiciary's electronic public access program. Such revenue also is being used to fund the Public Access Network and CM/ECF system projects. [The Judicial Conference has approved two appendices to the Bankruptcy Court Miscellaneous Fee Schedule identifying what types of data or information made available via the Internet may be provided without an associated fee. Examples of persons or classes of persons who may be exempted by the court from electronic public access fees include, but are not limited to: indigents; bankruptcy case trustees; not-for-profit organizations; and voluntary ADR neutrals. Work by the Administrative Office continues on the NIBS WebPACER application. Once this system is deployed and available on the Internet, the Internet access fee would apply. Advance notification will be provided, however, before the effective date of this requirement.] Congress has authorized the Federal Judiciary to retain this fee since directly appropriated funds from Congress are not available for this purpose.

4. The clerk's office currently is operating two case management systems – NIBS and CM/ECF. Operating these two systems is placing an increasing burden on clerk's office staff. The Administrative Office has advised that it is developing a conversion program, which, when completed and placed into operation by the clerk's office, will permit the conversion of information from the NIBS databases to the CM/ECF databases. While this conversion effort will be transparent to external users, it will reduce the current significant burden on clerk's office staff members who must operate both the NIBS and CM/ECF case management systems. The Administrative Office has committed to a conversion program release date to the court of July 1, 2000.

5. The UAG was advised that the "Internet Search" option at the court's Internet web site was down periodically during the first week of January 2000. There are alternate means, however, by which needed information can be accessed. For case information in non-ECF cases, the public

can obtain such information by going through BRASS. (There is a \$.60 per minute charge for users and users must access each division on a division-by-division basis.) For ECF cases, the public can go through <http://ecf.vaeb.uscourts.gov>. This will permit public viewing and/or users access to the CM/ECF system. The latter option always is available if the court's Internet web site is down for any reason.

6. Release 1 of CM/ECF will have VCIS capability. This will permit the court to continue the current practice of permitting users to gain telephonic access to the court's case information.

7. The clerk's office is in the process of providing additional training to the chapter 13 standing trustees in the Eastern District and plans to complete this training sequence by February 18, 2000. Also being considered is how best to offer further training for chapter 7 panel trustees. [Gregg Nivala is conferring with the other AUSTs in the Eastern District concerning this issue.] In addition, the training materials for external users is in the process of being updated. [These updated materials now can be found on the ECF System Information Page at the court's Internet web site.]

There ensued a discussion concerning the organizational structure of the UAG. Three non-exclusive options were suggested: committee of the whole; *ad hoc* subgroups, as needed; or specific subgroups, *e.g.*, training, education, public relations, communications, software/hardware enhancements, policies and procedures, local rules committee liaison. There was general agreement that the UAG process was not far enough along to make such a decision at this time.

With respect to the frequency of holding UAG meetings, the view was expressed that as the CM/ECF system demonstrated success, the need for frequent meetings would lessen. It was agreed that for the time being, meetings should take place via videoteleconference every six weeks or so. Initially, the UAG should focus its attention on identifying objectives and lines of authority. Also discussed was the UAG's role in communicating information to and receiving information from the CM/ECF system's users.

Robert Weed raised and discussed two forms that are burdensome to ECF filers. The first form is a Declaration of Divisional Venue. The second form is a proof of service to the Disclosure of Compensation, which is provided to the U.S. Trustee's office. It was noted that both of these forms are non-standard (*i.e.*, they are not produced by the standard bankruptcy software) and, as a consequence, consume an inordinate amount of a filer's time in filing a chapter 7 case. To the extent that these matters may involve Local Bankruptcy Rule consideration, it was suggested that Mr. Weed memorialize his concerns in writing and send a letter to Frank Santoro (who is a member of the Eastern District's Standing Committee on Local Bankruptcy Rules) and copy Bill Redden. Bill Redden indicated that the matters would be taken up by the clerk's office's district management team.

Bill Redden provided an overview of the CM/ECF system's Modification Request (MR) process. He also noted that input is available through a newly established CM/ECF Work Project Group made up of representatives from the prototype and so-called "first wave" Bankruptcy Courts. Judge Mitchell and Peggy Grivetti are members of this twenty-five member group. A subgroup of this Work Group met at the Administrative Office recently to review and prioritize pending MRs. In addition, representatives from the five prototype Bankruptcy Courts and the Administrative Office meet by teleconference every six-to-eight weeks to discuss issues of mutual interest, including MRs. [A February 10, 2000, teleconference was held.]

### **Other Issues of Concern**

Several issues of concern were raised:

- . Time needed to enter data for new petition filings: It was agreed that there were too many data screens requiring possible data entry in CM/ECF. The court representatives noted that there is an effort underway to streamline the case opening process and it was hoped that the new process would be folded into Release 1 of CM/ECF.
- . Need to allow attorneys to create case opening documents within their offices and then upload these documents to CM/ECF: It was agreed that such an approach would save time and effort. Court representatives agreed to examine this issue further and to raise the issue at the next CM/ECF prototype Bankruptcy Courts' teleconference.
- . E-Mail notifications: The receipt of electronic E-Mail notifications in CM/ECF cases without adequate background information being available to recipients could cause the recipients not always to know the importance of and/or the need to respond to such notifications. A general discussion on the issue ensued. It was agreed that court representatives would address this issue. Court representatives advised that it was possible to hyperlink to the document(s) underlying the electronic notifications. [The clerk's office provided users with information on this process in the February 2000 edition of the *ECF Flier*.]
- . Additional log-ins and access by staff in the offices of registered users: An MR has been sent to the Administrative Office on the need for such an enhancement. Both additional security levels beyond the three levels currently provided for and the need to provide intermediary access levels for multiple users in the same office are a priority.

The discussion turned to the area of communicating the availability of CM/ECF both within and outside the Eastern District of Virginia. There was a recognized need to engage the cooperation of the local bankruptcy bar associations and to identify other means by which to get more members of the bar involved in using CM/ECF. The minutes of the UAG meetings will be placed on the ECF System Information Page at the court's Internet web site. The view was expressed that lower volume filers

would not likely use CM/ECF unless the Court mandated its

-5-

use (subject to certain exceptions that the court may authorize). A concern was expressed that those using CM/ECF could be placed at a competitive disadvantage because of usage costs and constraints imposed by the prototype version and possibly by any later version(s) of CM/ECF.

Bill Redden will provide the UAG with a listing of the external members' (and his) Internet email addresses so these members can confer with one another and provide UAG members with comment on issues of interest to the UAG. Bill Redden will receive such comment and disseminate it to the court representatives and to clerk's office staff tasked to follow up on issues that may be raised.

The discussion turned to accessing the court's databases. Greg Nivala noted efforts his office was undertaking concerning the impact of CM/ECF on section 341 creditors' meetings and the impact on trustees in receiving petitions, lists and schedules in electronic form. Barry Wells noted the rapid expansion of cable modem and DSL capabilities in the Eastern District and elsewhere, in addition to T1 line availability.

It was agreed that UAG members will provide Bill Redden with a listing of proposed agenda items and technical questions that could be reviewed prior to the next scheduled UAG meeting. Close of business Tuesday, February 22, 2000, was set as the deadline for Bill receiving such items and technical questions. It also was agreed that Bill Redden will send out an agenda for the next meeting by Friday, February 25, 2000. The next UAG meeting is scheduled to be held on Friday, March 3, 2000, commencing at 12:00 Noon and concluding by 2:00 P.M. The meeting will be held via videoteleconference, through Sprint, at the Alexandria, Norfolk and Richmond facilities.

The meeting adjourned at 3:35 P.M.

Respectfully Submitted,

/s/ William C. Redden