

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

CM/ECF USERS' ADVISORY GROUP

SEPTEMBER 12, 2000, MEETING

MINUTES

A meeting of the CM/ECF Users' Advisory Group (UAG) was held on Tuesday, September 12, 2000. The meeting, which was held via videoteleconference, at the Court's Alexandria, Norfolk and Richmond facilities, commenced at 12:35 p.m. and concluded at 1:35 p.m. The following persons were in attendance at the meeting. Robert Weed, Roy Lasris, Frank Santoro, Barry Spear, Charles Krumbein, Gregg Nivala, Judge David Adams, Peggy Grivetti, Pat Woodhouse, Chuck Miller, Renee Mitchell Paxton, Andrea Redmon, Barry Wells, Dick Napoli and Bill Redden.

Opening Comments (*Bill Redden*)

Bill Redden made some opening comments. Bill inquired of the UAG concerning a Bar member's suggestion that UAG minutes, when finalized, be transmitted to registered ECF users via e-mail. This practice currently is being done with the monthly *ECF Flier* issues. Without objection, the UAG agreed that the final minutes of UAG meetings would be transmitted, as suggested, starting with the minutes from the September 12, 2000, UAG meeting.

Bill Redden commented upon an ECF-related handout, which showed total ECF petition filings (with percentages of ECF petition filings to total petition filings from July 1999 through August 2000) for the Eastern District of Virginia (VAEB) and by Division within the Eastern District. For August 2000, 37.1% of total petition filings that month were filed via ECF. For the eight-month period ended August 31, 2000, 31.3% of total petition filings were filed via ECF. For the Eastern District, total petitions in August 2000 were slightly higher than such petition filings in August 1999 (2,189 vs. 2,143). On a quarterly basis, a similar handout chart will be placed in the *ECF Flier*. ECF data through September 30, 2000, will appear in the October 2000 issue of the *ECF Flier*.

1. a. Revised Draft ECF Usage and Preparedness Survey

Bill noted that the Court's Bankruptcy Judges are committed to administering cases by a substantially paperless process. At some point, perhaps early-to-mid 2001, the Judges will mandate the implementation of ECF while allowing limited waivers to ensure effective access to the Court. The Court is seeking to gauge the preparedness of the Bar, trustees and other external groups to transition fully to the ECF process. An On-line Electronic Case Filing Usage

and Preparedness Survey (ECF Survey) has been prepared for completion by registered ECF users and by non-users (through use of the virginia.edu website).

Bill Redden made some initial comments concerning the draft ECF Usage and Preparedness Survey (ECF Survey). He provided a brief overview of the structure, format and contents of the ECF Survey. Following this, Bill invited comment on the ECF Survey as then drafted.

A suggestion was made to add a question concerning the future application of the WebPACER user access fee that has been approved by the Judicial Conference of the United States. **[Update:** Two questions on this subject, 1.12 and 1.13, have been added to the ECF Survey.]

A suggestion was made that Section 2 of the ECF Survey be changed to reflect ECF-related hardware and software needs. It also was suggested that reference to the Court's website be made concerning where persons could find a listing of minimum ECF hardware and software requirements. **[Update:** These suggested changes have been incorporated into the ECF Survey.]

b. Draft Notification Memorandum to the Bar

A suggestion was made that the release of the ECF Survey be deferred for a short period of time to permit the Clerk's Office to secure Intranet e-mail addresses from attorneys and others so they could receive e-mails containing a hyperlink to the ECF Survey website. To facilitate this effort, it was suggested that the Assistant U. S. Trustees could ask the trustees to secure this information at the §341 creditors' meetings. A concern was raised that the ECF Survey should not be delayed as the proposed distribution of information publicizing the ECF Survey was adequate. A concern also was raised that having the trustees secure e-mail addresses of interested individuals could be unduly burdensome on the trustees. **[Update:** Following the UAG meeting, at the request of an UAG member, the issue of whether to secure e-mail addresses at §341 creditors' meetings and to defer the release of the ECF Survey for this purpose were reconsidered. Without objection from the UAG, it was determined that: (1) the release of the ECF Survey could be deferred to September 29, 2000; (2) the Assistant U. S. Trustees would be asked to request the trustees to secure e-mail addresses at §341 creditors' meetings from individuals who would be interested in receiving a direct hyperlink to the ECF Survey website via e-mail sent to them by the Clerk's Office; (3) a form drafted by the Clerk's Office would be used to facilitate securing these e-mail addresses through October 6, 2000; (4) the requested response date to the ECF Survey would be extended through October 20, 2000; and (5) the responses would be tabulated and assessed for presentation to the Judges at the Judges' October 30, 2000, meeting.

On September 27, 2000, the Clerk issued a memorandum to the Bar for transmittal via the Bankruptcy Noticing Center. Separately, on September 29, an Internet e-mail was transmitted by the Clerk's Office to all registered ECF users advising that the ECF Survey had been posted to the Court's website along with instructions for gaining access to the ECF Survey. On October 6, an Internet e-mail was transmitted by the Clerk's Office to those individuals who provided the Clerk's Office with their Internet e-mail addresses at the §341 creditors' meetings (145 addressees). This e-mail included a direct hyperlink to the ECF Survey website. Lastly, on October 11, the Clerk's Office transmitted a reminder e-mail to registered ECF users requesting users to complete the ECF Survey. This e-mail also included a direct hyperlink to the ECF Survey website.

In addition to the above noted efforts, a direct hyperlink to the ECF Survey website was placed on the public access computer terminals in each division of the Clerk's Office. Also, notice fliers have been made available for distribution at the Intake Counter of each division. Moreover, a limited number of copies of the ECF Survey have been made available at the Intake Counter of each division for individuals who do not have Internet access. Survey responses have been received (253) and are being reviewed. Fifty-eight percent (147) of the responses were from non-ECF users.]

A suggestion was made that information concerning the application of the Judicial Conference mandated WebPACER access user fee should be included in the Clerk's memorandum to the Bar. Without objection, it was agreed that the Clerk would prepare suitable language to this effect. [Update: The following language was placed in the Clerk's September 29 memorandum to the Bar:

**Preliminary Notification of User Fee for
Document Retrieval**

At the Court's Electronic Case Filing System Information Page, (ECF page), <http://www.vaeb.uscourts.gov/ecf.ecf.htm>, the following NOTICE appears under the "Public Case Query" screen: 'Access to the information in this system is currently available at no charge; however, a user fee, approved by the Judicial Conference of the United States, may be applied in the future.' The Court has been advised that a Judicial Conference mandated fee of \$0.07 per page will be made applicable to all external customers for document retrieval unless a waiver, consistent with Judicial Conference policy, has been authorized by the Court. A document retrieved as a result of a query will accrue a \$0.07 per page charge. Background information on the user fee is set out in the minutes from the January 21, 2000, CM/ECF Users' Advisory Group meeting, which can be accessed at the Court's ECF page.

The court anticipates that the external customer user fee will be assessed within 90 days **after** the Court converts to Version 1 of the CM/ECF case management

system. The conversion date has not been established as yet. When a registered user receives an e-mail notice notification, there will be a hyperlink to the document and to the docket sheet. Free of charge, the registered user will have one opportunity to view/download or print the document from the hyperlink.

Also, without charge, the registered user may review the e-mail notice notification as many times as the user desires. Otherwise, a query will generate the minimum per-page charge. No charge will be assessed for an invalid case number result. **Advance notice will be given to external customers, which will include Court approved waivers, before the Judicial Conference mandated users fee is implemented.]**

2. Current Status and Information of Interest

a. CM/ECF Server Equipment and Data Transfer Status (*Barry*)

Barry advised that the CM/ECF server equipment, which was delivered to the Clerk's Office in May 2000, still must be certified by the Administrative Office. **[Update:** The Clerk's Office has been advised by the Administrative Office that the last of the communications connectivity and routing problems has been resolved. The Clerk's Office has asked the Administrative Office to transfer ECF data residing in the latter's ECF server equipment to the Court's ECF server equipment for testing purposes. Once such testing has been completed successfully, a request will be made to have the Court's ECF data transferred to the Court's ECF equipment permanently for operational purposes. It is anticipated that the ECF data will be transferred to the Clerk's Office for testing purposes by the end of October 2000. The ECF test data was received by the Clerk's Office on October 25, 2000.]

b. CM/ECF Version 1 Set-up/Configuration; Testing at AO's Independent Test Center (*Andrea*)

Andrea Redmon reported that initial testing of CM/ECF Version 1 was completed on September 22. An updated Version 1, with bug fixes, is to be re-tested during the first part of October 2000. **[Update:** The Administrative Office has advised the Clerk's Office that re-testing of Version 1 has been deferred for several weeks. Re-testing is scheduled to commence on October 23 and conclude on November 3. Two Clerk's Office staff members will be participating directly in this re-testing effort.

A Bankruptcy Court Test Board (Test Board) made up of Court and Administrative Office representatives, met via teleconference on October 11 to discuss the re-testing schedule. The Test Board will meet around the middle of November to assess the results of the re-testing. At the October 11 teleconference, the Administrative Office representatives reiterated their goal of releasing CM/ECF Version 1 to the ECF courts in January 2000.]

c. NIBS Conversion Program Update (*Barry*)

The Administrative Office has made slow progress in providing the Court with a NIBS conversion program. While some data verification work has taken place, the Clerk's Office has not been provided with program component modules to test locally. Internally, in preparation for implementation of the NIBS conversion program, the Clerk's Office will be updating the NIBS attorney list. **[Update:** Members of the Clerk's Office's automation staff and ACC Team have been tasked to complete this effort. A video teleconference meeting was held on October 26, 2000, with Barry Wells, Dick Napoli, Bill Redden and Administrative Office staff to discuss the status of the NIBS conversion program and transfer of the Court's ECF data from the AO to the Court. A follow-up teleconference has been scheduled for November 9, 2000.]

d. Local Court Development of Enhancements to CM/ECF (*Barry*)

On September 7, Barry Wells and Bill Redden met with AO representatives via teleconference to discuss development of an API program, which will facilitate local court ECF-related enhancements to CM/ECF. Administrative Office and Clerk's Office staff are working together in developing the API concept through the development of an auto-discharge enhancement to CM/ECF. Assignments have been agreed upon and are in process towards completion.

e. ECF Courtroom Pilot Project (*Barry*)

Efforts continue to expand the project to include all the Bankruptcy Judges' courtrooms. The Clerk's Office is working with the GSA to wire Judge St. John's courtroom and core drilling has been completed in Chief Judge Tice's and Judge Shelley's courtrooms. Funds have been obligated for automation equipment for all the Bankruptcy Judges' courtrooms.

3. Communication and Training Efforts

a. ECF On-Line Training Manual Status; AO On-Line Training Site Status (*Renee and Andrea*)

Renee Mitchell Paxton and Andrea Redmon reported on two on-line training efforts that are underway. First, the Court's on-line training manual will be updated to incorporate CM/ECF Version 1. Once the revised test release of Version 1 is received, Clerk's Office staff will commence the on-line training manual update process. **[Update:** The DQA/Trainers and ACC Team members will review the Version 1 release notes by December 1. They will: (1) provide a list identifying and prioritizing the current CM/ECF training modules/job aids and other on-line materials that will need modification as a result of Version 1; and (2) identify any additional on-line resources that should be developed and

which otherwise cannot be incorporated into existing training modules/job aids. February 2, 2001, has been set as an internal target date to complete this activity.

Separately, effective October 1, the process of filing schedules, statements and lists after the initial filing of a "skeleton" petition has been changed. Four codes have been eliminated and the process has been streamlined into one code: "Schedule(s) and/or Statement(s), Lists." Also, effective October 4, the "Amended Pleadings" module of the ECF on-line attorney training manual has been updated to reflect the change in event codes.]

Second, several modules of the Administrative Office's on-line CM/ECF Version 1 training tutorial have been completed as follows: Case Opening, How to Use the Tutorial; Introduction to CM/ECF; Motion/Application with Attachments; Docketing a Proof of Claim; Uploading a Creditor Matrix; and Converting a Word or WordPerfect Document to pdf. The Administrative Office's Technology Training and Support Division is working with the Texas Western Bankruptcy Court on this tutorial. Once CM/ECF Version 1 is ready for release to the ECF courts, the tutorial will be released as well.

b. CM/ECF Version 1 Training, ECF Fairs for Registered Users, New User Training (*Andrea and Renee*)

Andrea and Renee reported on CM/ECF Version 1 training efforts. Once Version 1 is configured; it will be placed on the Court's training database. As described more fully at Item 3.a. above, the on-line training manual will be updated along with the job aids. The forms will be available to internal and external users alike while the latter will be available to internal users. If Version 1 is released to the ECF courts for operational use by the end of this calendar year (or early next year), ECF Fairs will be scheduled throughout the Eastern District during the first quarter of 2001.

c. VAEB Mentoring for TNMB (*Andrea*)

The Bankruptcy Court for the Middle District of Tennessee (TNMB) is one of six ECF first wave courts. VAEB has volunteered to act as a mentor for TNMB's ECF efforts. An implementation team from the Administrative Office and Andrea Redmon from VAEB traveled to Nashville from September 5-8, 2000. Andrea gave several ECF demonstrations to court staff, attorneys and others during this period. One of the TNMB bankruptcy judges indicated a strong desire that once TNMB went live on Version 1 of CM/ECF, it would want to make ECF filings in that district mandatory.

4. Hand-out Materials (*at meeting sites*)

The following handout materials were provided to all UAG meeting participants at the Alexandria, Norfolk and Richmond meeting sites: (a) Administrative Office prototype statistics, through August 31, 2000; (b) a statistical chart showing ECF data through August 31, 2000; (c) information on the Clerk's Office staff time it took to convert Heilig-Meyers from a NIBS to an ECF case; and (d) the August 2000 issue of the *ECF Flier*.

5. Technical Questions (*No questions submitted for meeting through September 6, 2000.*)

No technical questions were raised for consideration at the meeting.

6. Issues of Interest to UAG Members

a. Electronic Mailboxes for Judges' Signature Project (*Barry*)

Barry Wells provided an overview of the proposed plan to process on-line orders in ECF cases. A proposal will be presented to the VAEB Bankruptcy Judges when they meet on October 30, 2000. [**Update:** This proposal was presented to the Judges and the concept was well received. Assignments for piloting this project were agreed upon and it is anticipated that testing with selected Judges, attorneys and trustees will commence before the end of January 2001.]

b. Heilig-Meyers Chapter 11 Filing: Whether to Recommend Mandated ECF Filings for Chapter 11 Cases in Advance of Other Bankruptcy Code Operating Chapters

When Heilig-Meyers filed its Chapter 11 petition in August 2000, it originally was filed as a NIBS case. Subsequently, Chief Judge Tice designated it as an ECF case. While such a designation will improve the effective administration of this case, considerable effort was required by the Clerk's Office to convert the case from NIBS to ECF. The UAG was asked to consider whether Chapter 11 cases should be made ECF-mandatory in advance of other Bankruptcy Code operating chapters.

c. Chapter 13 Plan Look-up at Court's Internet Website, Notification via Post Card

An attorney requested that the UAG consider a proposal concerning service of Chapter 13 plans. The UAG considered whether attorneys should be permitted to send out some form of post card to creditors, which would include language advising creditors to look up the debtor's case on the Court's website to review

the plan. In considering this matter, the UAG concluded that such a procedure would not satisfy due process requirements and that the proposal neither was contemplated by the Federal Rules of Bankruptcy Procedure nor by the LBRs.

d. E-Mail Notification and Paper Courtesy Copies; Requirement that Registered Users Make Use of ECF E-Mail Notification Feature

When the VAEB commenced using ECF, many attorneys would send a courtesy hardcopy of a paper that also was noticed by e-mail to the recipients. As time progressed, these courtesy copies have not been sent as before. This may cause some confusion from a notification perspective. There is no requirement that courtesy hardcopies be issued to persons who receive e-mail notification. Also, addressed was a concern that some registered ECF users are not turning their ECF e-mail notification feature on to receive mandated e-mail notifications. An article was placed in the August 2000 edition of the *ECF Flier* concerning this matter.

e. Incentive to Encourage ECF Chapter 13 Petition Filings Update (Bill)

Bill reported that the LBR Standing Committee was not able to arrive at a consensus concerning whether to recommend that LBR 2016-1(C) be amended to provide for a fee enhancement of \$100 to those Chapter 13 debtors' attorneys who file their clients' petitions and schedules via ECF.

7. Next Meeting Date, Location(s) and Time

It was agreed that the next UAG meeting would be scheduled for November 14, 2000. The meeting will be held via videoteleconference, through Sprint, from 12:00 noon to 2:00 p.m., at the Court's Alexandria, Norfolk and Richmond facilities. UAG members are requested to provide Bill Redden with proposed agenda items and technical questions, by close of business November 3, 2000. This will facilitate a review by court representatives of any submitted agenda items and technical questions prior to the next scheduled UAG meeting. Bill Redden will send out an agenda for the next UAG meeting by close of business November 8, 2000.

The meeting adjourned at 1:35 p.m.

Respectfully submitted,

William C. Redden