

# Law Currents



A Quarterly Newsletter

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## The significance of "ECF" [Electronic Case Filing] in courts.

By Richard A. Klass, Esq.

The above headline seems a strange topic for this newsletter. It does not address a particular area of law, or seem to relate to most people other than lawyers. However, this is not so, and is an important development of which the general public should be aware.

Only until a couple of years ago, the "modus operandi" of various activities relating to a court case, ranging from filing the initial papers to researching archived files, was to make a trip to the actual courthouse. That traditional courthouse is rapidly being replaced with the "virtual" courthouse.

The general process is that documents are uploaded from an attorney's computer (typically in "Adobe" format) to the court's server for electronic filing. Once uploaded, the file becomes a part of the court's case file. The court also provides a manner in which people who either do not have a computer or do not have internet access can either deliver a diskette to the

clerk or scan documents into terminals at the courthouse.

For security purposes, each attorney is given a password to permit access. That access password must be protected, as it is treated the same as an attorney's signature.

Electronic Case Filing has begun to be used as the only method of filing in several New York area courts, including the Bankruptcy Courts, the federal District Courts, and a pilot project in a couple of New York State Supreme Courts.

ECF has significant benefits for various interested parties:

1. The courthouse eliminates almost all paper storage of files, along with court personnel associated with file handling.
2. Files or papers will not be lost, misplaced, or destroyed; unfortunately, these problems have been routine occurrences.
3. Attorney and non-attorney filers are able to file documents at any time, even when the courthouse is closed.
4. The public is able to view any filed document in an electronic case file at any time and from any place.
5. Judges are able to easily review documents.

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The ability to view documents online from anywhere is probably the most important part of the ECF evolution. The instantaneous viewing of documents can be a tremendous advantage in making decisions. For instance, the viewing of a debtor's bankruptcy petition online moments after it is filed can afford a creditor sufficient time to determine whether to discharge or whether its claim has been properly listed. Further, the creditor may obtain information on property co-owned by the debtor with a non-filing party. Another example is that ECF access provides the opportunity to verify information given by a credit applicant.

# Debt Collection Tips:

A practical guide to collecting on a debt in New York State.

Check out Your Court Street Lawyer's  
web-site at:

[www.courtstreetlaw.com](http://www.courtstreetlaw.com)

## Restraining an account:

Once the creditor has obtained a Judgment from a court, one of the options for obtaining payment of the Judgment is to restrain funds of the debtor contained in an account.

The process is to serve a "restraining notice" upon the subject bank, as permitted by statute. In turn, the bank then holds the funds contained in accounts belonging to the judgment debtor pending further action on the part of the creditor. This restraint remains in effect upon the funds for a period of one year.

The next step of the creditor is to remove the restrained funds from the bank. This is done either through an Execution issued to a Sheriff or Marshal (since that person is deemed as "enforcement officer" able to obtain the funds), or through a "turn-over proceeding" where the creditor begins a separate action against the debtor and the bank as a garnishee, requesting that the

court direct the garnishee/ bank to turn over the restrained funds.

Once the restrained funds are delivered to the creditor through either of the above methods, the accounts of the debtor will continue to be restrained by the bank (where, in the event that new funds were deposited, they would be restrained as well) until the creditor issues a "release" letter to the bank or a Satisfaction of Judgment is filed by the creditor.

Where an account of the debtor is held jointly with another person, it is necessary to file a turn-over proceeding, as the court must determine the respective rights of the accountholders to the funds. One defense to the proceeding is that the debtor is a joint accountholder only for convenience purposes.



## YOUR REFERRALS:

Any referrals of business would be greatly appreciated:

- ▶ Real estate transactions
- ▶ Cooperative Apartments
- ▶ Matrimonial law/divorce
- ▶ Commercial litigation
- ▶ Federal Court litigation
- ▶ Bankruptcy
- ▶ Appeals
- ▶ Personal Injury
- ▶ Corporate formation/business transactions
- ▶ Wills/estate proceedings

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