Slide 1 - Welcome
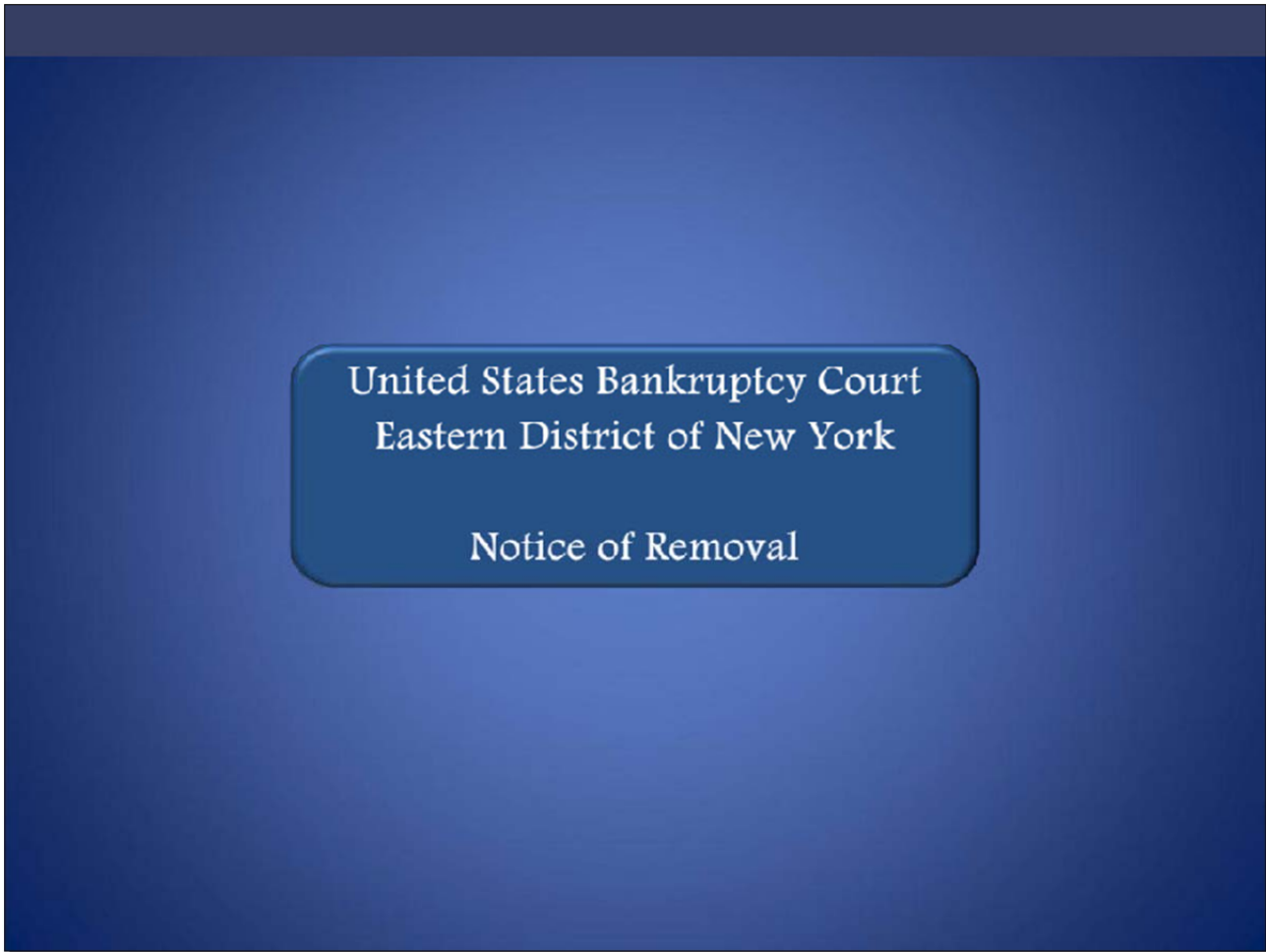

Welcome to the United States Bankruptcy Court Eastern District of New York's lesson on Notice of Removal.

Slide 2 - Navigation Instructions

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
Hon. Carla E. Craig, Chief Judge   Robert A. Gavin Jr., Clerk of Court

Navigation Instructions

Table of Contents:

Use the Table of Contents (TOC) to jump to different sections of the module. You can open it and close it with either:

The arrow in the top left corner of the screen, ◀ Table of Contents
Or
The TOC button in the Navigation bar. TOC

Playback Controls:

Playback controls are located at the bottom of the screen. They may be used to move forward or back, or to rewind to the beginning of the lesson. The playback controls also include a pause/play button toggle.

You can turn the audio on or off by clicking the speaker icon.

Additional Information:

Additional information on this module will be displayed when the filer clicks on the "i".

Additional filing information is displayed when the mouse hovers over the tip star icon.

Select START when you are ready to begin.

START

Slide 3 - Objective

Slide 4 - Information

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
Hon. Carla E. Craig, Chief Judge   Robert A. Gavin Jr., Clerk of Court

From time to time, civil actions pending in another Court (usually State Court or occasionally Federal District Court) are removed to Bankruptcy Court when that civil action is related to a pending Bankruptcy case.

The removal process is begun by the filing of a Notice of Removal with the Bankruptcy Clerk for the district and division within which is located the State or Federal Court where the civil action is pending.

CONTINUE

Slide 5 - Information

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
Hon. Carla E. Craig, Chief Judge   Robert A. Gavin Jr., Clerk of Court

A Notice of Removal action is assigned an Adversary case number. A special Notice of Pre-Trial Conference will be issued by the Bankruptcy Court for service, except for matters assigned to Judge Trust, in which case an Order Scheduling a Status Conference or Pre-Trial Conference will be signed.

After you have served all interested parties, you must serve proof of service by using the "Affidavit/Certificate of Service" event, found under the Bankruptcy Events "Other" category in the CM/ECF system.

CONTINUE

Slide 6 - ECF Main Menu

In this lesson, the Notice of Removal is being filed by the attorney for Meredith Samuels, the defendant in the State Court action and debtor in the bankruptcy case in the Bankruptcy Court. After successfully logging into CM/ECF, select **Adversary**.

Slide 7 - Adversary Events

From the list of Adversary Events, select **Open an AP Case**.

TIP: When an Adversary/Notice of Removal action is opened, a cross-reference of the filing is automatically entered on the Lead bankruptcy case. Generally, filers should not docket on the Lead bankruptcy case if the filing pertains to the Adversary/Notice of Removal.

Slide 8 - Case type / Date filed / Complaint / Counsel for

The **Case type** defaults to **ap** and cannot be changed.

The **Date filed** defaults to the current date and cannot be changed.

The **Complaint** field has two options: **n** for no, and **y** for yes. Select **n** for no to file a Notice of Removal. You will be prompted to indicate whether you are **Counsel for** the **plaintiff** in the State Court action or **Counsel for** the **defendant** in the State Court action. In this lesson, a Notice of Removal is being filed in Bankruptcy Court on behalf of the defendant in the State Court civil action. Select **defendant**, and then select **Next** to continue.

TIP: When filing a Notice of Removal, be sure to select the correct option in the **Counsel for** drop down box to ensure that the caption for the Notice of Removal matches the original caption used in State Court.

Slide 9 - Lead case number / Association type

Enter the Lead bankruptcy case number, and select Adversary from the Association type drop down pick list.

Slide 10 - Lead case number / Association type (Cont'd)

Select **Next** to continue.

Slide 11 - Assignment of Judge and Office
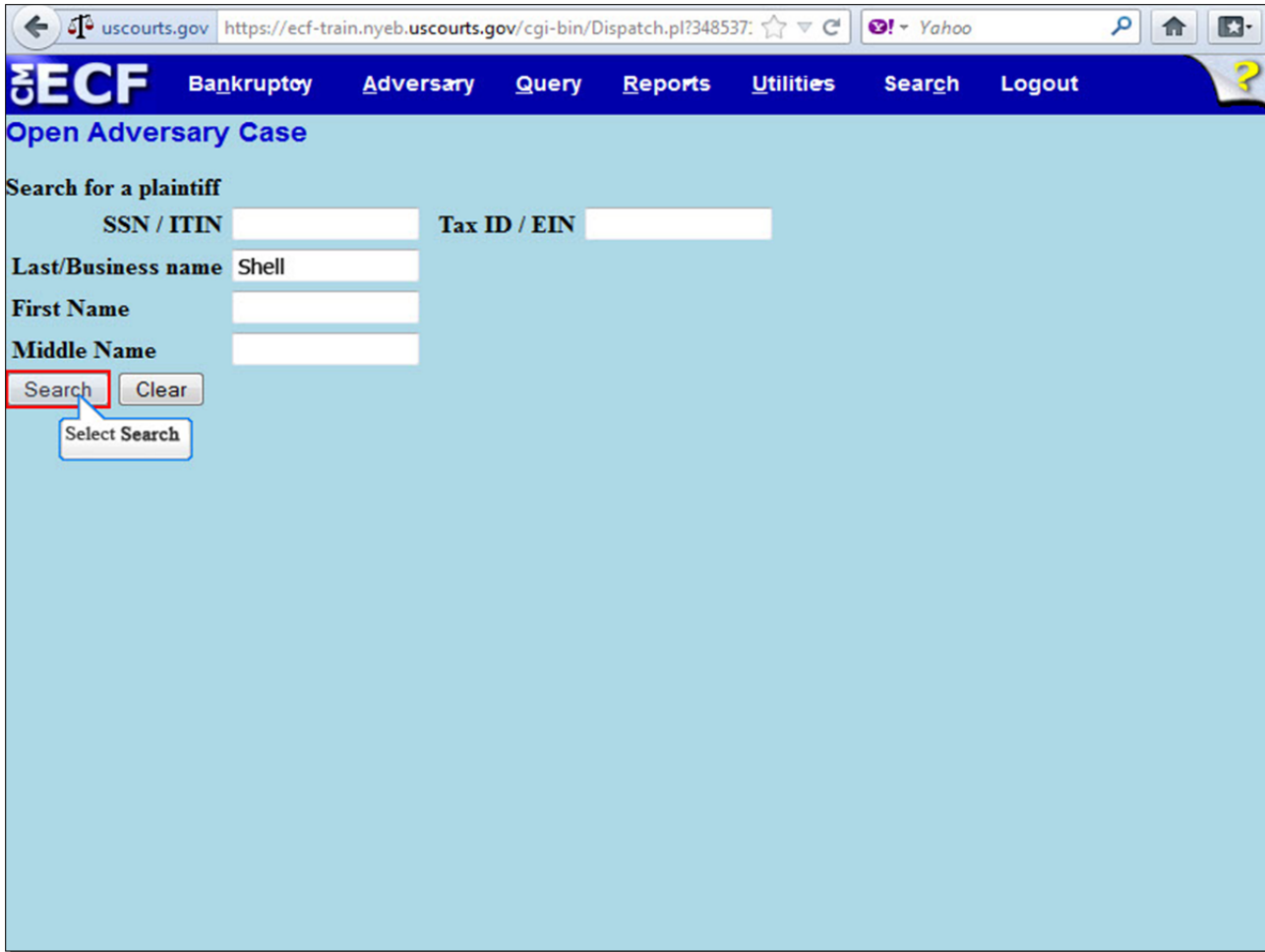
In this lesson, the Notice of Removal is assigned to the Central Islip Division and to Judge Trust, in accordance with the Lead Bankruptcy case number entered on the previous screen. Verify that this information is correct and select **Next** to continue.

Slide 12 - Search for a Plaintiff

This screen is used to search for an existing party record within the Court's CM/ECF database. A search for a party record should be conducted when filing a Notice of Removal to avoid creating duplicate profiles in the electronic database. In this lesson, the plaintiff in the State Court action is the creditor Shell, while the defendant in the State Court action is a debtor in Bankruptcy Court, Merideth Samuels. You have the option to search by Social Security Number, Individual Taxpayer Identification Number, or Tax ID / EIN number, or by using the name fields. Here, since the plaintiff in the State Court action is a business, enter that business's name in the Last/Business name field, and select Search.

TIP: The **Tax ID / EIN** field should be used for businesses.

Slide 13 - Search for a Plaintiff (Cont'd)

The search results may display all matching records or the message **No person found**. If you were searching for a party who had filed previously on ECF, that party would show up in the search results, and you would select it and continue. In this instance, no party was found matching the business name we inputted. Select **Create New Party** to add a profile for the State Court plaintiff, Shell.

Slide 14 - Plaintiff Information

The information used on the previous **Search for a plaintiff screen** populates the **Plaintiff Information** screen to create a party of record in the CM/ECF database. Do not fill in address information.

The **Party text** field should be used only to further identify the type of corporation, for example, "A New York Corporation" or "Guardian of the State." Party text may also be used for extra-long names. Information entered in this field will appear on the caption of the docket report immediately after the party's name.

Role in Bankruptcy Case is a mandatory field, and identifies Shell's role in the Lead Bankruptcy case. The plaintiff in the State Court action is a creditor in the Lead Bankruptcy case, so select **Creditor**.

The **Attorney** button allows the filer to add attorney(s) to the case if the plaintiff in the State Court action is represented by an attorney. The **Alias** button can be used to add other names the Plaintiff has used. The **Corporate Parent/affiliate** button should be used if the Plaintiff has a corporate parent or affiliate. The **Review** button allows the filer to verify specific party types added to the case. The **Clear** button erases all information from the Plaintiff Information screen. The **Cancel** button takes the filer back to the **Search for a plaintiff** screen. Review the information entered on the **Plaintiff Information** Screen and select **Submit** to continue.

TIP: If you were representing the plaintiff in the State Court action, this screen would contain an **Add Additional Attorney…** button.

In this lesson, although you are representing the defendant in the State Court action, you should click on the **Attorney...** button to add the plaintiff's attorney to the case.

Slide 15 – Search for a Plaintiff (Cont'd)

If there were more than one plaintiff in the State Court action, you would search for that plaintiff here, as you did on the previous **Search for a plaintiff** screen, and then repeat the process of entering information on the **Plaintiff Information** screen that was just demonstrated. In this example, there is only one plaintiff in the State Court action, so we would select **End plaintiff selection**.

Slide 16 - Search for a Defendant

On this screen, you would search for a defendant's existing party record much the same way you did for the plaintiff earlier. In this example, the defendant in the State Court action is a debtor in the Lead Bankruptcy Case. We have entered the defendant's first and last name, so we will now select **Search**.

Slide 17 - Search for a Defendant (Cont'd)

In this instance, since we are searching for a debtor who is already in the system, her record has shown up in the **Party search results**. We will therefore select this record.

TIP: Do not select the party from the **Party search results** unless it is the same name from the Notice of Removal.

Slide 18 - Search for a Defendant (Cont'd)

A window appears displaying the information on the party you just selected. Review the information shown to ensure that you are picking the correct party, and then select the button **Select name from list** to continue.

Slide 19 - Defendant Information

The information on the previous **Search for a defendant** screen populates the **Defendant Information** screen.

Role in Bankruptcy Case is a mandatory field, and identifies the party's role in the Lead Bankruptcy case. Our defendant in the State Court action is a debtor in the Lead Bankruptcy case, so we would select **Debtor**.

Select **Attorney…** to add yourself to the case as the attorney for the defendant in the State Court action.

TIP: If you are representing more than one defendant in the State Court action, you must add yourself to the case with the **Attorney...** button for **EACH** defendant, on each **Defendant Information** screen.

The **Party text** field should be used only to further identify the type of corporation, for example, "A New York Corporation" or "Guardian of the State." Party text may also be used for extra-long names. Information entered in this field will appear on the caption of the docket report immediately after the party's name.

Slide 20 - Search for an Attorney

You can search for your attorney record by entering either your **Bar Id** number or your **Last name**. In this instance, we will enter the last name and select **Search**.
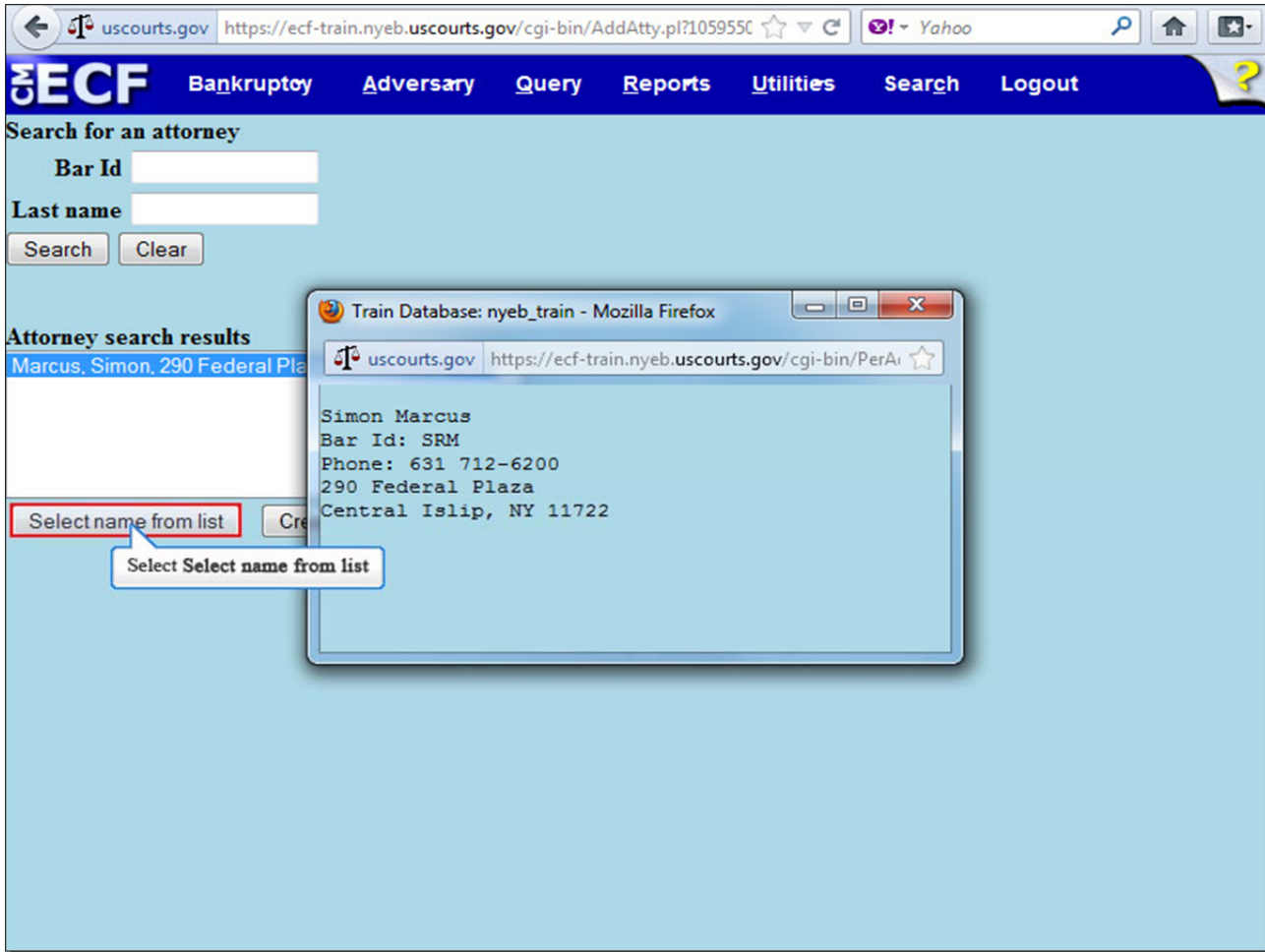
Slide 21 – Search for an Attorney (Cont'd)

Select your attorney record from the **Attorney search results**.

Slide 22 - Search for an Attorney (Cont'd)

A window appears displaying your attorney record information. Review the information shown to ensure that you are picking your attorney record, and then select the button **Select Name from list** to continue.

Slide 23 – Defendant's Attorney Information

Review your attorney information and add or change any information as needed, and then select **Add attorney**.

Slide 24 – Defendant Information (Cont'd)

Select **Submit** to continue.

Slide 25 – Search for a Defendant (Cont'd)

If there were more defendants in the State Court action, you would search for them here as was demonstrated earlier. In this example, there is only one defendant in the State Court action, so we would select **End defendant selection**.

Slide 26 - Nature of Suit / Statistical Information

The **Party code** field allows you to select whether the United States is the plaintiff, defendant, or neither. Neither the plaintiff nor the defendant in the State Court action is the United States, so you would leave the field at option **3 U.S. not a Party**. The **Rule 23** field determines whether this is a class action proceeding. Ours is not, so you would leave the field at the default option of **n** for no. The default option for **Jury demand** is **None**, with options for **Both**, **Defendant**, or **Plaintiff**. In this case, leave the field at the default option of **None**. If the plaintiff in the State Court action is making a money demand, the amount of that demand would go in the **Demand** box. Notice the **($000)** below the word **Demand**. This means that the number you enter in this box will have three zeroes added to the end of it on the case docket. So if, for example, the plaintiff in the State Court action were demanding $5,128.00 from the defendant, you would NOT put that exact amount in this box. You would round down to $5,000.00, and simply put the number **5** in the box, and once the Notice of Removal is filed, the docket will show a demand of $5,000.00. The **State law** field signifies whether this proceeding relates to an existing substantive issue of state law, with options of **y** for yes, **n** for no, or **u** for unknown. Here, we will leave the box at the default option of **n** for no. The **Primary nature of suit** field is where you would select a code for the nature of the State Court action. Select the drop-down arrow to view a list of natures of suit.

Slide 26 - Nature of Suit / Statistical Information (Cont'd)

A list appears of different options for nature of suit, and you would select whichever option best describes the relief requested in the State Court action. Let's say the plaintiff in the State Court action was seeking the Recovery of money/property for a reason not specified in the listed natures of suit. You would therefore select code **14**.

Slide 26 - Nature of Suit / Statistical Information (Cont'd)

If the action has more than one nature of suit, you can pick and choose each one in the fields beneath the **Primary nature of suit**. List your natures of suit according to priority, and ensure that they match those in the Notice of Removal. When you have entered your natures of suit and the other required information on this screen, select **Next** to continue.

Slide 27 - Select Event

Select the drop-down arrow beneath **Select event**, and select **Notice of Removal**

Slide 27 - Select Event (Cont'd)

Select **Next** to continue.

Slide 28 - Upload Notice of Removal

On this screen, it is recommended that you select the radio button next to **Yes** prior to selecting **Browse…** if you know you will be uploading attachments to the main document. Since we will be uploading attachments (Exhibit) to the main document, we will select the **Yes** radio button.

TIP: If you are including Exhibits, you may either upload them as Attachments to the main Notice of Removal, or include them with the Notice of Removal in a single PDF file depending on the size of the exhibits. When filing documents that reference exhibits not prepared in electronically produced text, you must scan and electronically file only excerpts of the exhibits that are directly germane to the matter under consideration by the Court. In no event shall an exhibit be more than 20 pages. The exhibits must be clearly and prominently identified as excerpts, shall state that the entire document is available to any filing party, and the complete exhibit must be sent to the Court (and must be available in the Courtroom at any hearing pertaining to the matter).

Slide 29 - Upload Notice of Removal (Cont'd)

Select **Browse...** to upload the Notice of Removal in PDF.

Slide 30 - Upload Notice of Removal (Cont'd)
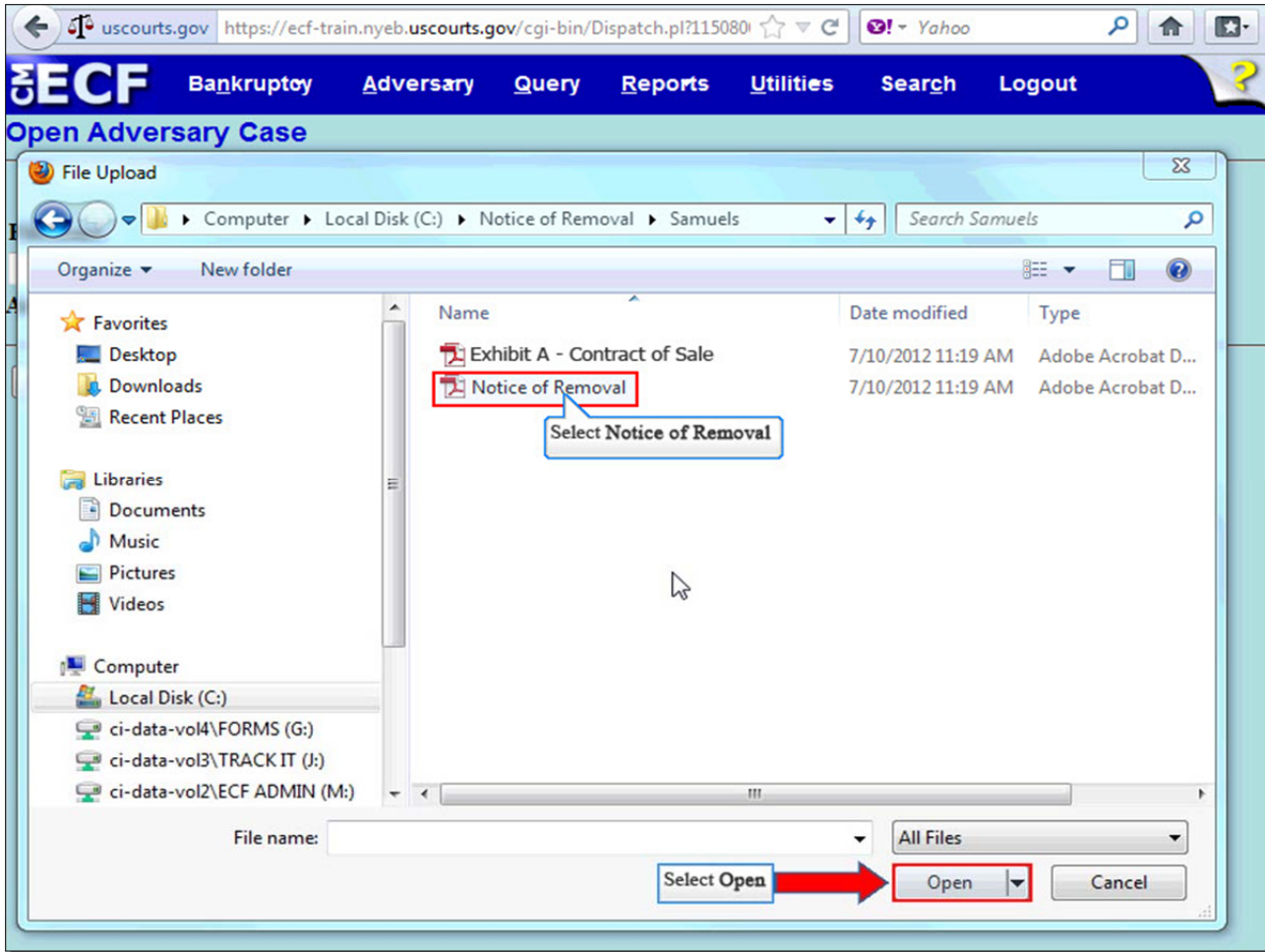
The **File Upload** screen appears. Select the **Notice of Removal** file. It is highly recommended that you first right click to open and view any file you are attaching to confirm that it is the correct document. Select **Open** to upload the Notice of Removal.

Slide 31 - Upload Notice of Removal (Cont'd)

The complete filename displays in the **Filename** field. Select **Next** to continue.

Slide 32 - Upload Exhibit A

Here, we will attach Exhibit A, which in this case will be a Contract of Sale. Select **Browse...**

Slide 33 - Upload Exhibit A (Cont'd)
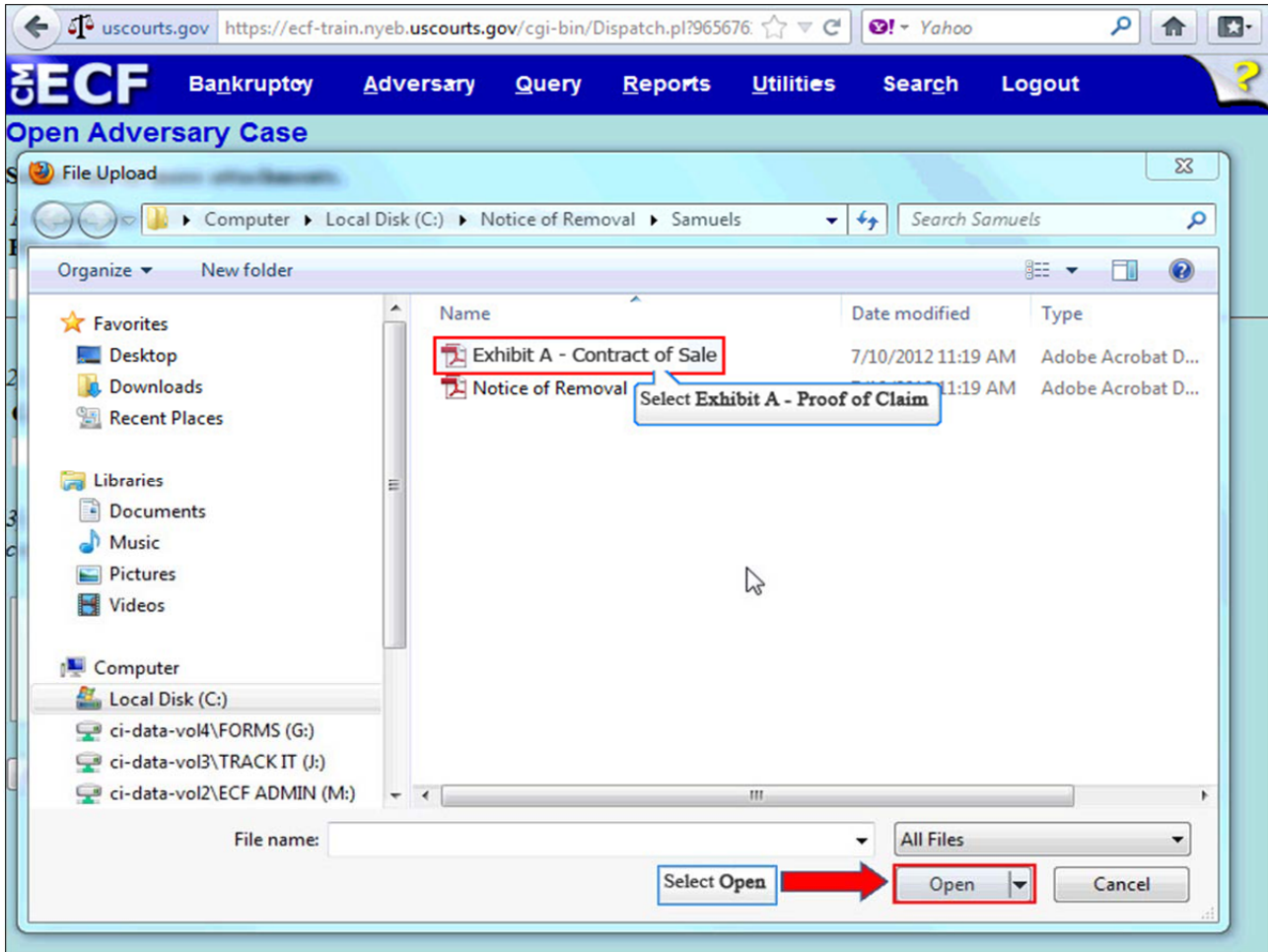
Select **Exhibit A – Contract of Sale**, and then select **Open** to upload Exhibit A.

TIP: It is highly recommended that you first right click to open and view any file you are uploading to confirm that it is the correct document.

Slide 34 - Upload Exhibit A (Cont'd)

The complete filename displays in the **Filename** field.

The next step in adding an attachment is to identify the category. Select the drop down arrow to view a list of categories.

Slide 34 – Upload Exhibit (Cont'd)

A list of categories appears. Select **Exhibit** from the Category List and type **A – Contract of Sale** in the **Description** field to call this attachment "Exhibit A – Contract of Sale." This **Description** field can also be used to name an attachment if the category for your attachment is not listed in the Category list.

Slide 34- Upload Exhibit A (Cont'd)

Select **Add to List** to add the attachment to the Add to List box.

Slide 34 - Upload Exhibit A (Cont'd)

If you have more Exhibits to attach, select **Browse...** and repeat the process of adding additional attachments (Slides 32-34) until all Exhibits are listed and properly identified. In this lesson, we have no more additional attachments. Select **Next** to continue.

Slide 35 - Receipt #/Fee

This screen prompts the filer for a receipt number and a fee amount. The **Fee** amount defaults to $293.00 and should not be changed. The **Receipt #** field should always be left blank, **UNLESS** the filer represents the Chapter 7 or 13 debtor, in which case you would enter the word **Deferred** in the **Receipt #** field. In this case, the filer is representing a Chapter 11 debtor, so the **Receipt #** field is left blank. Select **Next** to continue.

Slide 36 - Final Docket Text

The filer is given the opportunity to modify the Docket Text by selecting from the prefix drop down pick list and/or adding information to the white text box. In the white text box, type in the name of the State Court action, which in this lesson is Shell vs. Merideth Samuels. Select **Next** to continue.

Slide 37 - Final Docket Text (Cont'd)

Review the Final **Docket Text** before submitting. By selecting **Next**, the filer commits the transaction and will have no further opportunity to modify the submission.

Have you redacted? This question refers to the filer's uploaded documents and not the data entries. This is a final reminder to comply with the Redaction Requirements (Fed. R. Bankr. P. 9037). The Electronic Case Filing system does not redact the content of any document uploaded by the filer.

Select **Next** to continue.

TIP: The Clerk's Office will amend the docket text to correctly reflect who is filing the Notice of Removal. In this lesson, the defendant Merideth Samuels, not the plaintiff, Shell, in the State Court action, is filing the Notice of Removal, and the Clerk's Office will amend the docket text to reflect this--(*Notice of Removal re: Shell vs. Merideth Samuels filed by Merideth Samuels).*

Slide 38 - Summary of Current Charges

The **Summary of current charges** appears with the **Notice of Electronic Filing** in the background. If the **Summary of current charges** did not appear, go to the ECF menu bar and select **Utilities**, then select **Internet Payment Due** to make a payment. If you have more filings that require a fee, it is recommended that you select **Continue Filing**. Otherwise, you would select **Pay Now** to pay the fee at this time.

For more information on the procedure for paying filing fees electronically, see the separate module entitled Pay.Gov on the Court's website at:

http://www.nyeb.uscourts.gov/elms/pay_gov/Paygov.htm

TIP: If you select **Continue Filing**, the **Notice of Electronic Filing** will appear. If you select **Pay Now**, you will not be able to see the **Notice of Electronic Filing** on ECF, but you will receive it via e-mail.

Slide 39 - Summary