

COURT

News and Views

A Biannual Publication of the U. S. Bankruptcy Court | Middle District of Alabama

One Church Street | Montgomery, AL 36104-4018



Clerk's corner

JC Guerrero

Welcome to the very first edition of our biannual newsletter. Our mission in the Bankruptcy Court for the Middle District of Alabama (ALMB) is customer-service focused. We believe communication is a key part of providing effective customer service. We regularly use our webpage, attorney forums, and our attorney advisory group as means of communication with our customers. We hope this newsletter will be another effective way to provide information to our customers on a regular basis. Our goal is to keep these newsletters short, hard hitting, and interesting. We plan to send these out electronically to all of our registered CM/ECF users. Please let us know how we are doing. Are these newsletters useful? How can we make them better? E-mail any comments to it@almb.uscourts.gov.

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Attorney advisory group

We started our first-ever attorney advisory group last fall and we have met twice so far. Recall that we sent out a message seeking attorney volunteers to serve on this group. Out of those volunteers, we selected a cross section of attorneys to represent our three Middle District divisions. The current representatives are: Gail Donaldson, George Thomas, Nick Parnell, Sandra Lewis, Marsha Mason, Rafael Gil, and Paul Spina. Some of them will serve 2-year terms and others 3-year terms. Our meetings have been informative and productive. So far, our judges have made some significant changes based on input we received from these meetings to include increasing the Chapter 13 "no-look" fee, restructuring telephone dockets, and adding telephone dockets. Please continue to use these representatives as another way to give us feedback, ideas, etc.

ECF user manual

As many of you know, we have an attorney ECF user manual on our webpage. This manual is especially helpful to folks who are new to the ECF system. We are currently updating the manual and will repost the updated version as soon as possible. Please give us feedback on the manual and tell us how we can make it better for you.

Wireless Internet access

We have recently added wireless Internet access to the Dothan and Opelika courthouses. Sometimes the weather can cause the wireless routers to stop working. Please let us know whenever the Internet is down in either location and we will send someone out right away to fix it. Call us at 334 954-3800 or e-mail us at it@almb.uscourts.gov.

Let me close by saying I have thoroughly enjoyed my first two years here at ALMB. We have a superb group of dedicated Judiciary employees and a great customer group (attorneys and other office staff). Together we can continue to ensure a fair and efficient bankruptcy process for the Middle District of Alabama.

*Coming together is
a beginning.*

*Keeping
together is
progress.*

*Working
together is
success.*

~Henry Ford

NEW ECF EVENT...

In Ch. 13 cases, a Notice of Completion of Plan Payments filed by the Ch. 13 trustee is normally followed by the clerk's filing of a Notice of Requirements Necessary for Discharge. This notice informs the debtor that a Certificate of Financial Management and/or a Motion for Discharge must be filed within 30 days for the debtor to receive a discharge. In some instances, however, the debtor may not be entitled to a discharge, usually due to having received a previous discharge within the time limitations of §1328.

In order to forgo unnecessary filings and deadlines, and thus expedite the closing of such cases, a new ECF event has been created, *Notice of Ineligibility for Discharge*. The new event is located under the Bankruptcy>Notices menu and may only be filed by the debtor or attorney for debtors in Ch. 13 cases. Because the event is a text-only entry, it is not necessary to prepare a PDF document before filing.

EQUIPMENT FOR THE HEARING IMPAIRED AND HANDICAP ACCESSIBILITY



DO YOU HAVE A CLIENT WHO IS HEARING IMPAIRED?

The U. S. Bankruptcy courtrooms in Montgomery are equipped with wireless headsets to assist such individuals. If needed, please ask the courtroom deputy shortly before court to provide you with a set.

FYI...

The courthouse is fully handicap accessible with designated parking on Church Street. There is a handicap/wheelchair ramp on the right side of the front plaza entrance .

For your convenience, there is an electronic notification button to alert security for assistance into the building, if needed.



ECF

Tip

Having trouble finding the correct ECF event for your filing? Try clicking the ECF Search button located in the top menu bar. A popup window will appear allowing you to type in a key search word. Click the magnifying glass icon and ECF will display a list of hyperlinked events containing your key search word as well as the menu path to the event. Still need help?

The ALMB website features an extensive, step-by-step ECF User Manual. Navigate your browser to www.almb.uscourts.gov and click the [User Manual](#) link under the Quick Links menu. Note, the ECF User Manual is currently being updated. We will post the new publication as soon as it is completed. Still having trouble? You can always call the Clerk's Office during business hours at 334-954-3800. A case administrator will be glad to walk you through your filing.



(L-R) Ms. Barbara Harvest, Judge Dwight H. Williams, Jr., Judge Vanzetta Penn McPherson, Mrs. Shirley McLain Jones, and Henrietta Foster

BA bits!

Teresa R. Jacobs
U. S. Bankruptcy Administrator
Middle District of Alabama

All §341 meeting of creditors held on and after June 1, 2011 in the Northern (Montgomery) division will be held in courtroom 4-E of the FMJ Courthouse annex until further notice. All attorneys and parties should use the annex entrance and proceed to the fourth floor. Your assistance in advising your clients accordingly is greatly appreciated, although the correct location is listed on the notices.

The 2011 poverty guidelines issued by the U.S. Department of Health and Human Services for the purpose of determining a Chapter 7 debtor's eligibility for a filing fee waiver pursuant to 28 U.S.C. §1930(f)(1) are available on the B.A. website, www.almba.uscourts.gov under News.

Also, see In re Coleman, 2011 WL 71056 (Bkrtcy M.D. Ala), also available on the Bankruptcy Court website, www.almb.uscourts.gov under recent published opinions where the Court considered the totality of the circumstances in determining eligibility for waiver of the filing fee.

A Celebration of Black History

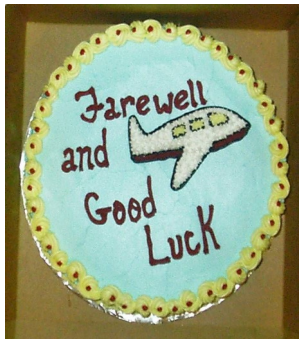
By Henrietta Foster

On February 25, 2011 the United States Bankruptcy Court for the Middle District of Alabama hosted its Fourth Annual Black History program. Chief Bankruptcy Judge Dwight H. Williams, Jr. presided over the ceremony. The guest speaker for the event was former United States Magistrate Judge Vanzetta Penn McPherson. Judge McPherson delivered a powerful message on striving for excellence.

Musical selections were performed by Ms. Barbara Harvest and a poetry reading was recited by Mrs. Shirley McClain Jones. Past speakers for the program include Morris Dees, Co-founder and Chief Trial Counsel for the Southern Poverty Law Center, Pastor Robert Graetz, Civil Rights Activist and former Congressman Artur Davis. Following the ceremony guests enjoyed a luncheon sponsored by the Bankruptcy Court and U.S. Attorney's office.

Patricia Conover

retired from her position as Assistant U. S. Attorney on March 31, 2011. After graduating from the University of Georgia School of Law, she worked as a law clerk to Bankruptcy Judge Rodney R. Steele prior to joining the U. S. Attorney's office in 1987. Rand Neeley has assumed responsibility for representing various government agencies in bankruptcy cases.



REACHING OUT BEYOND THE COURTHOUSE

The Middle District of Alabama federal family reached beyond the walls of the courthouse in Montgomery by initiating "BUCKETS FOR BAMA," a campaign to assist the many families who suffered devastating losses in the April 27 tornado. The court family responded by filling 100 paint buckets with essentials for the families in the damaged areas. Buckets included cleaning supplies, sanitizers, work gloves, snacks, first aid kits, etc.





BENCH NOTES

SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS

Service of process in bankruptcy proceedings is much easier to accomplish than in civil cases in Federal District Court or in most State Courts of general jurisdiction. The Bankruptcy Rules permits service of process, in most instances, by first class mail. Moreover, service may be made on a nationwide basis. Because it is so easy, it is paradoxical that service is so often done improperly. The purpose of this article is to review the rules that pertain most frequently and to identify the most common pitfalls.

Before we examine the pertinent rules, one should first consider when service of process is necessary. There are two things which are most commonly served. First, a summons and complaint in an adversary proceeding must be served. Fed. R. Bankr. P. 7004. Second, a motion which initiates a contested matter must also be served.¹ Once it is determined that a pleading or paper must be served, the practitioner should consult the applicable rules on service of process.

Most, but not all, of Rule 4 of the Federal Rules of Civil Procedure is incorporated into Bankruptcy Rule 7004. Therefore, one may effect service of process in bankruptcy matters by reference to Rule 4, Fed. R. Civ. P., however, this is rarely done. Virtually all process which is served in bankruptcy proceedings is served pursuant to Rule 7004(b), which allows for service by first class mail on most kinds of defendants or respondents.

The means and method of service process is governed by the kind of party to be served. If an individual is to be served, simply mail copies of the process to him at his residence or where he regularly conducts business. Fed. R. Bankr. P. 7004(b)(1). The most common pitfall here is that an incorrect address will sometimes be used. Because service is complete upon mailing, the party making service may not be made aware that he has served at an incorrect address. Where a husband and wife are both parties, each should be sent a separate copy of the summons and complaint. Married couples are frequently sent wedding invitations and holiday cards to: John and Mary Smith, 23 Main Street, Smalltown, USA. However, in this example, John and Mary should be sent their process in separate envelopes separately addressed and separately mailed. The practitioner should consult the Federal Rules of Bankruptcy Procedure and not Emily Post's rules of etiquette.

Corporations are frequently served incorrectly. To properly serve a corporation, process should be sent to an "officer, managing or general agent." Fed. R. Bankr. P., 7004(b)(3). That is, a living, breathing human being should be identified and served. For example, serve—George Bigshot, President, Gotham Corp., 44 Wall St., New York, NY. If the practitioner identifies an officer and sends process to him at his business address, the corporation is properly served.

There are two common errors. First, in many instances, process is not sent to an officer, managing agent or general agent. That is, in many cases the party attempting service does not identify an officer or agent. Second, the officer or agent should be served at his office. Most institutional creditors will have a mail drop in South Dakota, or Iowa, or some other obscure place, where they want payments mailed. This is almost never the same address where George Bigshot puts his feet under a desk.

If the United States is to be served, copies should be sent to the Attorney General in Washington, DC and to the civil process clerk in the local U.S. Attorney's office. Fed. R. Bankr. P. 7004(b)(4), Fed. R. Bankr. P. Local practitioners have long served Assistant United States Attorney Patricia Conover and hoped that she would take care of everything else. Ms. Conover has recently retired. Practitioners should serve the Government, by the numbers, at least until another AUSA is given the responsibility of handling bankruptcy matters in the Middle District. If a debtor has a tax problem and is dealing with a specific Revenue Officer it is a good idea to serve them with process, however, it does not satisfy the requirements of the Rule.

¹There are other things which must also be served, such as subpoenas and involuntary bankruptcy petitions. In this article, we will focus on the complaints in adversary proceedings and motions initiating contested matters, as they are far more common.

Bankruptcy Statistics

THE SPOTLIGHT'S ON YOU...

Yvonne Pelham is the supervisor of our case administrators. In that position, she supervises almost half of our Clerk's Office employees. We recently held a luncheon celebrating Yvonne's 25-year anniversary with the Bankruptcy Court. At that luncheon, we recapped Yvonne's impressive career with the Court.

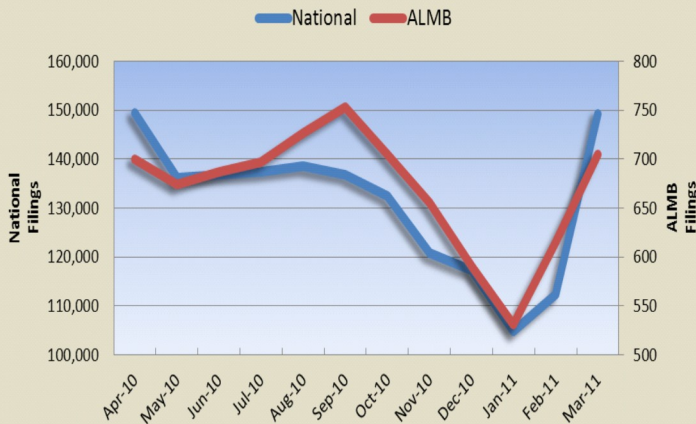


Yvonne was born in Hayneville, Alabama and moved to Montgomery when she was 3 months old. She was raised in Montgomery and graduated from Lanier High School in 1974. After high school, she moved to Cleveland, Ohio where she attended college and began work in the banking industry. In 1983, she moved back to Montgomery.

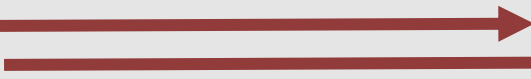
Upon her return, she continued working in the banking industry until she heard about an opening in the Bankruptcy Clerk's Office. Her first day of work here was March 2, 1986. She began as a reproduction clerk (a fancy way to say she made copies and filed papers). Eager to learn, Yvonne quickly began working her way up the ladder. She was quickly promoted to Chapter 7 case administrator. From there, she just kept moving up: Chapter 13 administrator, Chapter 7 asset clerk, calendaring deputy, and work leader. In 2005, she was promoted to her current supervisory position.

Yvonne is a tremendous asset to the Clerk's Office. Her job knowledge and meticulous rule following are perfect for her position. We are fortunate to have her on our staff and we hope she stays another 25 years! Congratulations, Yvonne!

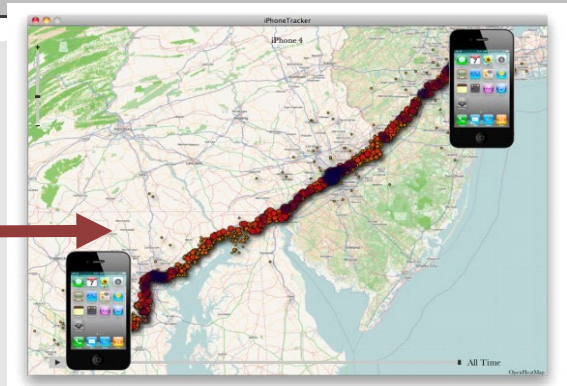
Total U.S. Filings vs. ALMB Filings
Year Ending March 31, 2011



TECH talk



By Scooter LeMay
Director, Information Technology



Yes. IT security researchers have

Is my iPhone following me?

discovered that since iOS 4 was released in June 2010, when iPhone and iPad users synchronize their devices with their computer, Apple uploads a log of their movements. This log uses the GPS chip in the device to collect the longitude and latitude of their locations as well as a timestamp. The log is saved in an unencrypted file called "consolidated.db" on the computer where the devices are synchronized.

Unlike location-based services or geotagging, there is no way for users to modify their privacy settings or opt-out of the process that saves data to "consolidated.db."

NOTE: While users cannot prevent the information from being saved, they can encrypt the data to prevent others from easily accessing the information. To encrypt the data:

1. Click on the "device" icon when it is connected to iTunes.
2. Select "Options."
3. Check the box for "Encrypt iPhone Backup."



Ring...Ring!

Below is an updated telephone directory for the Clerk's Office.

MAIN LINE: (334) 954-3800

FACSIMILE TRANSCRIPTS

Main

Desma Hamilton	
Rhonda King	
Ramona Walker	
Donna Wilcox	
Juan-Carlos (JC) Guerrero	Clerk of Court
Doug Young	Chief Deputy Clerk

954-3819

954-3847	desma_hamilton@almb.uscourts.gov
954-3855	rhonda_king@almb.uscourts.gov
954-3838	ramona_walker@almb.uscourts.gov
954-3854	donna_wilcox@almb.uscourts.gov
954-3800	jc_guerrero@almb.uscourts.gov
954-3811	doug_young@almb.uscourts.gov

HONORABLE DWIGHT H. WILLIAMS, JR.

Main Line

Faye Gregg	Judicial Assistant
Anna Williams	Law Clerk
Proposed Orders Email Address	

Chief United States Bankruptcy Judge

954-3890

954-3891	faye_gregg@almb.uscourts.gov
954-3892	anna_williams@almb.uscourts.gov
	dhw@almb.uscourts.gov

HONORABLE WILLIAM R. SAWYER

Main Line

Julia Caro	Judicial Assistant
Marguerite DeVoll	Law Clerk
Proposed Orders Email Address	
Janice Vance	Courtroom Deputy for Judge Williams
Bill Livingston	Courtroom Deputy for Judge Sawyer
Jackie Canada	Courtroom Deputy

United States Bankruptcy Judge

954-3880

954-3881	julia_caro@almb.uscourts.gov
954-3882	marguerite_devoll@almb.uscourts.gov
	wrs@almb.uscourts.gov
954-3845	janice_vance@almb.uscourts.gov
954-3846	bill_livingston@almb.uscourts.gov
954-3844	jacqueline_canada@almb.uscourts.gov

Linda Bodden	Financial Specialist	954-3839	linda_bodden@almb.uscourts.gov
Janet Clark	Financial Administrator	954-3872	janet_clark@almb.uscourts.gov
Henrietta Foster	Human Resources Manager	954-3850	henrietta_foster@almb.uscourts.gov
Butch Speed	Procurement/Project Manager	954-3815	butch_speed@almb.uscourts.gov
Scooter LeMay	Director, Information Technology	954-3848	scooter_lemay@almb.uscourts.gov
Tony Nolen	Network Specialist	954-3821	tony_nolen@almb.uscourts.gov
Kerwin Washington	Automation Support Specialist	954-3849	kerwin_washington@almb.uscourts.gov
DeAnna Williams	Data Quality Analyst	954-3853	deanna_williams@almb.uscourts.gov

Yvonne Pelham	Case Administration Supervisor	954-3859	yvonne_pelham@almb.uscourts.gov
Dianne Segrest	Sr. Case Administrator/Team Leader	954-3856	dianne_segrest@almb.uscourts.gov
Ramona Walker	Digit 0 Case Administrator	954-3838	ramona_walker@almb.uscourts.gov
Cynthia Sanders	Digit 1 Case Administrator	954-3858	cynthia_sanders@almb.uscourts.gov
Desma Hamilton	Digit 2 Case Administrator	954-3847	desma_hamilton@almb.uscourts.gov
Carrie Moore	Digit 3 Case Administrator	954-3842	carrie_moore@almb.uscourts.gov
Donna Wilcox	Digit 4 Case Administrator	954-3854	donna_wilcox@almb.uscourts.gov
Joyce Thorn	Digit 5 Case Administrator	954-3851	joyce_thorn@almb.uscourts.gov
Claudia Osborne	Digit 6 Case Administrator	954-3857	claudia_osborne@almb.uscourts.gov
Rhonda King	Digit 7 Case Administrator	954-3855	rhonda_king@almb.uscourts.gov
Elizabeth Walker	Digit 8 Case Administrator	954-3843	elizabeth_walker@almb.uscourts.gov
Linda Overton	Digit 9 Case Administrator	954-3852	linda_overton@almb.uscourts.gov
Janet Ingram	Case Administrator	954-3814	janet_ingram@almb.uscourts.gov