



# COURT News & Views

A BIENNIAL PUBLICATION OF THE UNITED STATES BANKRUPTCY COURT - MIDDLE DISTRICT OF ALABAMA

## CLERK'S CORNER

Summer is in full swing! We hope everyone had a great 4th of July weekend! Things are busy here, but they are going well. Here are a few updates from the time our last newsletter went out in late November 2013.

**Personnel:** we recently lost two key players in our office to a retirement and a transfer. Thankfully, we were at least able to replace one of those losses.

In December, Dianne Segrest retired from federal service after a distinguished 24-year career here in the Clerk's Office. She started off working on claims and at intake. She worked her way up and retired as the assistant supervisor over our case administrators. She did a fantastic job for us, and we wish her the best in her retirement. We held a going-away party for her back in December.

In February, we held a going away luncheon for Doug Young as he prepared to transfer to the bankruptcy court for the Southern District of Georgia in Savannah. As most of you know, he was our fearless chief deputy. He had been the chief deputy for more than 11 years and he was here when I arrived 5 years ago. He did a great job overseeing bankruptcy operations and was a huge help to me as I transitioned into the Judiciary. We still see and hear from him from time-to-time. He and his family are doing well and enjoying their new home in Savannah.

At the end of June, we were honored and pleased to welcome our new chief deputy—Tonya Hagmaier. She has absolutely hit the ground running and will no doubt do great things for our court. We are very excited to have her in place, and we look forward to all of you meeting her and working with her. You can learn more about Tonya and her impressive background on page 2 of this newsletter.

When I first arrived here in 2009 we had 26.5 (we shared an IT employee with District Court) total staff, and as of today we are down to 21. As you know, we and other bankruptcy courts across the country have had to lose staff to meet budget constraints. Nevertheless, so far we have been able to keep everything going. Our folks have really stepped up their game and I could not be prouder of them. We have also reorganized some and added new software applications as part of a continual effort to become more efficient. However, we are still focused on quality and customer service. As always, please let me know if you ever see a diminution in either of these areas.

**Webpage:** by now you should have all seen and used our new webpage. We basically used the national template and tweaked it some to better fit our needs. Please give us feedback and let us know how we can make it better. Let me quickly highlight a new feature: you can now sign up to receive informational e-mails from the court by registering at the bottom right hand corner of the webpage. We will be sure not to bombard you with e-mails—we will only e-mail you if we have something important to say. For example, we will use these e-mails to let you know when our electronic filing system (CM/ECF) will be down for upgrades or maintenance.

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### SPECIAL THANKS TO THE CITY OF OPELIKA

Chief Judge William Sawyer along with Clerk JC Guerrero extended a special thanks to Mayor Gary Fuller for temporary use of the city council's hearing room during the nine-month renovation of the Bankruptcy courtroom and chambers in Opelika. Mr. John Seymour, City Administrator, along with Ms. Barbara Arrington, Administrative Assistant to the Mayor, were both instrumental in coordinating the use of the city facility and made the court's transition a smooth one.

As a small token of appreciation, Judge Sawyer presented Mayor Fuller with a framed print of the United States Courthouse done by John Myers of the Administrative Office of U. S. Courts. Pictured above from left to right are JC Guerrero, Clerk of Court of the Bankruptcy Court; Honorable William R. Sawyer, Chief Judge of the United States Bankruptcy Court; Mayor Fuller; Barbara Arrington; and John Seymour. The court is grateful for their great relationship with the City of Opelika.

### New Chief Deputy Clerk Named

The United States Bankruptcy Court is pleased to welcome Tonya Hagmaier as its new chief deputy clerk. Ms. Hagmaier assumed her responsibilities on June 30th following a very distinguished career as an Air Force judge advocate.



Hagmaier is a graduate of Southern Wesleyan University and the University of Alabama School of Law. She began her military career in 1986 at Maxwell AFB and served as a judge advocate for twenty eight years. During that time she had 15 duty assignments in the continental United States and the Asia-Pacific region. She served as the director of the JAG Corps' human resources directorate with responsibility for training, professional development, assignments, and more for 1,200 judge advocates, and she served as the Commandant of the Judge Advocate General's School providing basic and upgrade training for paralegals and advanced law for lawyers in the military services and throughout the federal government. She was the senior legal advisor to the Air Force Inspector General's senior official investigations branch, and she served as the senior managing attorney for the four-star commander of Pacific Air Forces, with additional supervisory responsibility for 15 legal offices in 5 countries in the region. She is the only person in the JAG Corps ever to have served as both the director of the Air Force's criminal proceedings, including prosecution, defense, and government and defense appellate practice, and serve as the director of all civil law activities and litigation for the Air Force. Her last assignment before retiring was Director of Civil Law and Litigation for the Air Force.

In June 2014, the D.C. Bar honored Hagmaier as the 2014 recipient of its Beatrice Rosenberg Award for Excellence in Government Service for her contributions to the legal profession and her dedication to public service. The Rosenberg Award honors individuals who have demonstrated outstanding professional judgment throughout long-term government careers, worked intentionally to share their expertise as mentors to younger government lawyers, and devoted significant personal energies to public or community service.

Hagmaier is originally from the River Region and now makes Prattville her home. Please help us welcome her back to Alabama and to the Bankruptcy Court family.

### SEVENTH ANNUAL BLACK HISTORY CELEBRATION

With the Honorable Judge William R. Sawyer presiding, the United States Bankruptcy Court for the Middle District of Alabama recently hosted its seventh annual Black History Program. The theme for the program was "Believe, Achieve, and Succeed."

Entertainment for the program was provided by Mr. Eric Perkins of the Perkins Band. Eric performed an excellent rendition of the popular songs "What's Going On" and "A Change is Gonna Come."

Following the performance, the keynote speaker Mr. Bryan Stevenson addressed the audience. He delivered a powerful message on humanity's obligation to be just people in a just society. After the program guests enjoyed a reception in the courthouse atrium.



Chief Judge William R. Sawyer with Mr. Bryan Stevenson, Founder and Executive Director of the Equal Justice Initiative, Montgomery, Alabama.



*Justice cannot  
be for one side  
alone, but must  
be for both.*

Eleanor Roosevelt





Contributed by  
Honorable William R. Sawyer  
Chief United States Bankruptcy Judge

## Case Assignment and Numbering Procedures

Every time a case is filed in our court it is assigned either to Judge Williams or to me. The purpose of this article is to explain our case assignment procedures. Judge assignment is based on the division in which a case is filed and the chapter under which it is filed. The rules are straightforward. Chapter 7 cases in the Dothan and Opelika divisions are assigned to Judge Williams, while Chapter 7 cases in the Montgomery division are assigned to me. Conversely, Chapter 12 and 13 cases in Dothan and Opelika are assigned to me, and Chapter 12 and 13 cases in the Montgomery Division are assigned to Judge Williams. The assignment of adversary proceedings follows the assignment of the underlying bankruptcy cases.

Chapter 11 cases are assigned on a random draw, unlike cases under other chapters. The random assignment is now done by computer. In the not too distant past, we did the assignment by the flip of the coin, if it was heads, the case was assigned to me, tails to Judge Williams. From time to time we have an adversary proceeding which does not relate to a bankruptcy case--usually because the underlying case is filed in another district. In that case, we use a random draw. On occasion, a judge will have a conflict and the case will be reassigned to the other Middle District judge. If both Middle District judges recuse, we bring in a judge from out of the district. In addition, cases will sometimes be reassigned to cure an imbalance in case distribution between the judges.

We have procedures for case numbering as well. All cases have a two-digit prefix matching the last two digits of the year. For example, cases filed this year all have the prefix of "14." In addition, all bankruptcy cases are assigned a five-digit suffix, and all adversary proceedings are assigned a four-digit suffix. The first digit of the suffix corresponds to the division of the case. Dothan Division cases use the initial digit "1," Montgomery division cases use the initial digit "3," and Opelika Division cases use the initial digit "8." Furthermore, each year we begin each class of cases at one. For example, case no. 14-80001 was the first bankruptcy case filed this year in the Opelika Division. Case No. 14-3001, was the first adversary proceeding filed in Montgomery this year. Lawyers should bear in mind that an adversary proceeding may not have the same prefix years as the underlying bankruptcy case. This will happen any time an adversary proceeding is not filed in the same calendar year as the related bankruptcy case. Some lawyers use a full four digit prefix when designating a case. For example, they will cite a case number of 2014-80001 rather than 14-80001. To avoid confusion please use a two-digit case number prefix.

As a final matter, we assign each case to a case administrator (CA). Assignments are made on the basis of the terminal digit, which is the last digit in the case number. If you consult the Clerk's office directory on our website, you will see the terminal digit assignments by case administrator. For example, Case No. 14-80001, has a terminal digit of "1" which is assigned to Case Administrator Cynthia Sanders. Please bear in mind that any of our Clerk's Office staff will be able to help you with most of your questions about case administration, but the assigned CA will be the most knowledgeable about that particular case. We are always looking for ways to make our case administration more efficient and easier to access. If you ever have a question that a CA cannot answer, please do not hesitate to call either JC Guerrero, Clerk of Court, or me.

## **Unclaimed Funds**

Instructions and forms on how to file for unclaimed funds are now posted on our website. You can find this information by clicking on the Filing Information tab.

There are a few items we would like to highlight:

- ◆ Unclaimed funds are held by the court for an owner that has either failed to claim the funds, failed to negotiate a payment of the funds, or cannot be located. The claim exists in perpetuity, and the funds may be claimed at any time by the owner, a successor, or any other petitioner that proves a right to the funds.
- ◆ Anytime an application for unclaimed funds is filed by a claimant's representative, an original power of attorney is required for the specific purpose of claiming the funds. Unclaimed funds applications must be mailed to court or hand delivered; they cannot be accepted electronically.
- ◆ The easiest way for an individual who is the owner of record to receive the unclaimed funds is to go to our website and click on the link for Application for Payment of Unclaimed Funds for Individual Owner of Record.
- ◆ A W-9 for the payee must be submitted. The claimant's name and address on the application must match the W-9.
- ◆ Checks issued by a trustee are only valid for 60 days. After that, the uncashed checks are voided and the funds are remitted to the clerk's office as unclaimed funds. Please encourage your clients to keep their addresses current with the court and the trustee and to promptly cash any check from the trustee.

## **Fees Increased Effective June 1**

The Judicial Conference approved amendments to the Bankruptcy Court Miscellaneous Fee Schedule resulting in increased filing fees for bankruptcy cases and for filing a complaint in an adversary proceeding. The former \$46 administrative fee for chapters 7, 12, and 13 increased to \$75. The former \$46 administrative fee for chapters 9, 11, and 15 increased to \$550.

These changes affected the filing fees as follows:

DESCRIPTIONS	CURRENT FEE EFFECTIVE JUNE 1, 2014	PREVIOUS FEE
<b>Petitions</b>		
Chapter 7	\$335	\$306
Chapter 9	\$1,717	\$1,213
Chapter 11 (non-railroad)	\$1,717	\$1,213
Chapter 12	\$275	\$246
Chapter 13	\$310	\$281
Chapter 15	\$1,717	\$1,213
<b>Motions to Sever Joint Cases</b>		
Chapter 7	\$335	\$306
Chapter 13	\$310	\$281
Chapter 11 (non-railroad)	\$1,717	\$1,213
Chapter 12	\$275	\$246
<b>Adversary Proceedings</b>		
Complaint	\$350	\$293
Notice of Removal	\$350	\$293

A full listing of fees is available on our website at [www.almb.uscourts.gov/fees](http://www.almb.uscourts.gov/fees).



## CHAPTER 13 PAYMENTS ACCEPTED ELECTRONICALLY

The Chapter 13 Trustee is proud to announce that starting June 2, 2014, we began accepting online bill payments (ePay) from debtors. There is a link on our website ([www.ch13mdal.com](http://www.ch13mdal.com)) that debtors may use to register for ePay. To submit chapter 13 payments via ePay, each debtor must have an online payment ID. To obtain an online payment ID, the debtor will need to know his/her case number (no dashes and no judge's initials, just the seven digit case number) plus the last four digits of his/her social security number. For example, the online payment ID for case #11-77777 and SS# XXX-XX-1234 is 11777771234. To complete the online payment ID, the debtor will also need to know his/her bank routing number and account number. We have detailed instructions and examples of this process on our website.

The debtor must pay a \$2.00 convenience fee per transaction to use ePay. This fee covers the bank's cost for providing this service. The Trustee's office does not receive this fee.

If a debtor submits an ePay payment without having enough money in his/her account to cover the transaction, the result will most likely be a non-sufficient funds transaction. If ePay payments are returned for NSF or any other reason, the debtor's ePay account will be locked and he/she will no longer have the option of using the online payment system for the duration of the bankruptcy case. There are no exceptions to this rule.

All ePay payments will have a hold placed on the money for 30 days after the payment is posted. When a debtor uses ePay to make a final payment in his/her bankruptcy case, any overpayment to be refunded to the debtor must be held for 60 days after the payment is posted to the case. There are no exceptions to this situation.

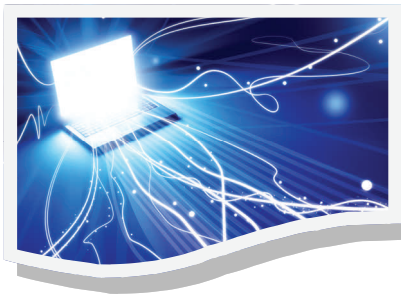
If you have further questions please visit our website at [www.ch13mdal.com/epay.html](http://www.ch13mdal.com/epay.html) to view our ePay Frequently Asked Questions page, or e-mail the Trustee's office at [epayquestions@ch13mdal.com](mailto:epayquestions@ch13mdal.com). If you have questions which are not covered on our website, please phone or email anyone in the Trustee's accounting department.

## Stats Sheet



### FISCAL YEAR FILINGS SLIGHTLY DOWN LOCALLY

According to a recent press release from the Administrative Office of United States Courts, national bankruptcy filings were down 11% for the 12-month period ending March 31, 2014, compared to filings for the 12-month period ending March 31, 2013. By comparison, bankruptcy filings in the Middle District of Alabama were down by less than 1% during the same period.



# TECH TALK

CONTRIBUTED BY  
SCOOTER LEMAY  
DIRECTOR  
INFORMATION TECHNOLOGY

## DON'T JUMP THE GUN!

We live in a fast paced world. Staying current in the IT world is a pressing issue, not only for support purposes but also for security reasons. One thing that is not changing as often as it used to is our case management/electronic case filing (CM/ECF) system. The system is undergoing a complete revamp, and in the future a new version will be available. Meanwhile, development efforts on our existing software ceased about a year ago. So currently CM/ECF is not changing with the times, but browsers used to access the website and software which generates document versions to file electronically are regularly updated.

Recently we had a call from a law firm that was no longer receiving the footer stamp information at the bottom of each "free look" document. The problem first appeared in December 2013. Coincidentally, that was the month the firm acquired a new digital document scanning device. The new machine was producing the latest and greatest in Adobe PDF formats, but CM/ECF was unable to recognize the newer format and could not perform the electronic stamping operation as a result.

After some consultation with several technical resources, the firm was able to downgrade their PDF version to a compatible release, and the problem was resolved. Lesson learned: if you make a change in technology hardware, software, or electronic filing procedures, it could cause problems with the CM/ECF interface or other systems you use that are not keeping pace. Be sure to perform thorough regression testing for all of your affected services when technology changes in your firm.

It will still be a year or so before the next generation of CM/ECF makes it to our court. So far, the new CM/ECF has been tested using Firefox and Internet Explorer 8 and 9. Newer versions and other browser types may work, but they may not. Please continue to use approved versions of browser software, especially if you encounter errors while filing.

Also, keep in mind that CM/ECF recognizes and can work with Adobe PDF Version 1.4 documents. If you have new software or devices that generate a later version of PDF, please consult your documentation or technical support provider for instructions to roll back to a previous version.

As always, we welcome your feedback on the court technology services we provide. If you are having difficulty filing your documents with us, please report it to us at (334) 954-3870 or by email at [IT@almb.uscourts.gov](mailto:IT@almb.uscourts.gov).



(Left to right- Tony Nolen, Network Specialist; Scooter LeMay, IT Director; Kerwin Washington, Automation Specialist)



## Practice Pointers and Avoiding Common Mistakes in ECF from the Operational Staff

If you're reading this article, chances are you're a bankruptcy practitioner and maybe even a specialist. Here in the clerk's office, we work hard to provide you with helpful assistance to ensure your filings are accurate from the beginning.

One tool we have to help you is our website -- <http://www.almb.uscourts.gov>. When you go to the website you'll find information on court locations and hours, news and announcements, and links to other courts. You'll also find links to our docket, local rules and general orders, opinions, and forms to aid you in your practice.

The forms we have linked for you are updated as rules are amended. Two of the forms (LBR 9007-1 - Motion and LBR 3007 - Objection to Claim) are unique to our local practice and have been drafted to conform to local rules.

At one of our recent attorney forums someone asked for tips from our office on ways attorneys help improve the bankruptcy administration process. Here are a few tips we've compiled.

**TIP One:** Local Bankruptcy Rule 9007-1 requires a particular 21-day negative notice legend be included in several different motions. Although 9007-1 applies to several types of motions, only one ECF docket event should be used for the 21-day response or objection period to be properly set by the computer. Below is the Rule 9007-1 21-day negative notice legend. We noticed that some of you are still using the old 20-day notice.

PURSUANT TO LBR 9007-1, THIS MOTION WILL BE TAKEN UNDER ADVISEMENT BY THE COURT AND MAY BE GRANTED UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN 21 DAYS OF THE DATE OF SERVICE. RESPONSES MUST BE FILED WITH THE CLERK AND SERVED UPON THE MOVING PARTY. RESPONSES MUST BE FILED ELECTRONICALLY WITH THE CLERK OR BY U.S. MAIL ADDRESSED TO THE CLERK, U.S. BANKRUPTCY COURT, ONE CHURCH STREET, MONTGOMERY ALABAMA 36104.

You can find the template with the Rule 9007-1 negative notice legend on our website under Forms. You can also find it in ECF under the Rule 9007-1 Motion Event: Bankruptcy>Motions/Applications>Rule 9007-1 Motions.

**TIP Two:** If you need to file an Amended Rule 9007-1 motion (because, for example, you had an error or omission in the body of the motion or because a necessary attachment to the motion is incorrect or missing altogether), use the same docket event listed above in TIP One and follow the prompts. Note that this time, however, your amended motion should not contain the negative notice language. If you put the negative notice language on your amendment, it will give the party in interest another 21 days to file a response.

**TIP Three:** Be sure you relate an amended motion to the original motion. You would be surprised at how often this is overlooked.

**TIP Four:** When you file an objection to claim and/or an amended objection to claim, make sure you follow Local Bankruptcy Rule 3007-1 and place the following negative notice language on your document:

PURSUANT TO LBR 3007-1, THE COURT WILL TAKE THIS OBJECTION UNDER ADVISEMENT AND RULE, WITHOUT FURTHER NOTICE OR HEARING, UNLESS THE CLAIMANT FILES WITH THE COURT, WITH SERVICE UPON THE OBJECTING PARTY, A RESPONSE WITHIN 30 DAYS OF THE DATE OF SERVICE OF THIS OBJECTION.

You can find the template with the LBR 3007-1 negative notice legend on our website under Forms. You can also find it in ECF under the Rule 3007-1 event: Bankruptcy>Claim Action on One Case>Objection to Claim.

**TIP Five:** Don't forget to use the correct ECF docket event for your filings. For example, all responses to objections to claims need to be docketed using the docket event Bankruptcy>Claim Action on One Case>Response to Objection to Claim to ensure the response is placed in the claims register for the correct claim.

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**TIP Six:** To ensure our files are searchable electronically, we must all use the same naming conventions, and in the ECF system capitalization matters. To this end, please do not use all capital letters when entering party names. When you open a new case, capitalize only the first letters of the names: e.g. John Q. Public, Jr.

**TIP Seven:** Of course it's important to proofread and double-check your work; but it is especially important when you are doing an electronic filing. When you are filing with the court and you get to the point where you receive this notice: "WARNING!!! Submitting this screen commits this transaction. You will have no further opportunity to modify this submission if you continue," your pleading needs to be ready to file. When you continue on after receiving this warning, your pleading has been filed with the court and no further changes can be made.

**TIP Eight:** When simultaneously filing motions for relief from stay and motions for relief from co-debtor stay in Chapter 12 or Chapter 13, please select both of the following docket events: Bankruptcy>Motions/Applications>Relief from Stay and Bankruptcy>Motions/Applications>Relief from Co-Debtor Stay. You can do this by pressing the CTRL key and selecting both docket events. Once the pleading is filed, simply add the co-debtor as an interested party to the case.

We hope these tips help you with your practice. If you need help, give us a call. If you have other tips you think would benefit your fellow practitioners or us here at the court, please let us know. We will be glad to pass them on for you.

Clerk's Corner (Continued from page 1)

**Local rules:** thank you to our Local Rules Committee (Britt B. Griggs; DeAnne M. Calhoon; J. Kaz Espy; Kristen P. Abbott; Richard C. Dean, Jr.; Charles M. Ingram, Jr.; and Jennifer R. Stanley) for all of their work and their final recommended updates and changes to our local rules. Chief Judge Sawyer is reviewing them and will provide his input to them next.

**Video teleconference (VTC):** we recently upgraded our VTC capability. Judge Sawyer is now using VTC for some hearings in Dothan and will begin using VTC for some hearings in Opelika in August. So far, we have received positive feedback. Please continue to give us feedback on how the VTC system is working.

**Attorney Forums:** last month we held three attorney forums—one in each of our divisions—Opelika, Montgomery, and Dothan. The forums were well received—we had approximately 70 attorneys and staff attend. Thank you all for supporting these forums. Recall the purpose of these forums is to provide an opportunity in an informal setting to give the judges and our office feedback on how we are doing. It is also an opportunity for the judges and our office to pass along information to all of you. The Bankruptcy Administrator, Chapter 13 Trustee, and Chapter 7 Trustees also normally attend these forums. During these most recent forums, our judges expressed how much they enjoy the forums and how much they appreciate all those who were able to attend. They gave some examples of changes implemented as a result of suggestions recommended in previous forums. For example, the Chapter 13 Trustee's Office recently started taking electronic payments from debtors as a result of an attorney's suggestion in Opelika last year (see page 6 in this newsletter for more details). Several issues were raised and discussed during these recent meetings, and as a result we are currently looking into the type of electronic signatures we use on orders, the use of electronic signatures for debtors, and the capability of being able to do a search inside our dockets. More to follow on those issues and others issues raised.

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**Attorney Advisory Group:** our attorney advisory group met in December of last year. The minutes of that meeting and all of our meetings can be found on our webpage under Attorney Resources. Recall the purpose of this group is to provide another avenue for communication between the court and the bar. This avenue provides a smaller, more intimate setting. We will meet again this upcoming December. Our current group consists of Paul J. Spina, III; Charles N. Parnell, III; Marsha C. Mason; Cameron A. Metcalf; Paul D. Esco; Charles E. Grainger; and Bowdy J. Brown. If you have anything you would like for them to bring up for discussion at our meeting, please pass it on to them.

We hope you enjoy this edition of our newsletter. As always, we welcome your feedback on the newsletter (e.g., ways we can make it more useful, ideas for topics, articles you would like to publish, etc.).



## NOTEWORTHY EVENTS

**DIANNE SEGREST  
HONORED UPON RETIREMENT**



**FAREWELL TO  
DOUG YOUNG  
FORMER  
CHIEF DEPUTY  
CLERK**



**HAGMAIER SWORN IN AS NEW  
CHIEF DEPUTY CLERK**