



Court News and Views

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

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Clerk's Corner

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Thank you for taking the time to read our newsletter. We hope it provides you with practical, useful, and hard-hitting information. Although our filings have been down a little compared to the same time last year, we have been plenty busy. Here are a few highlights since our last newsletter:

Personnel: We have had a lot of exciting personnel changes. For starters, we hired a new IT systems manager, Brian Suckman. Brian is an IT guru, a leader, and also happens to be a very successful attorney. He has absolutely hit the ground running, and we are so glad to have him here. He has a bright future with the judiciary!

We also hired a new case administrator, Kathy Copeland. Kathy has a wonderful background for her position. Not only did she come to us as a case administrator from the Chapter 13 Trustee's Office, she also has an IT background. She has quickly become an incredibly valuable part of our team. Finally, we have one person covering digit 6!

As all of you know, CM/ECF is our bread and butter. The smoother it works, the better for everyone involved with our court. Recently, we were fortunate to hire one of the best CM/ECF programmers in the country, Tony Lacy. Tony is from upstate New York and just finished an impressive stint with the New York Northern Bankruptcy Court. For now, Tony will be teleworking from New York, but he will be traveling to Alabama at least a couple of times per year. We are so happy to have him on board.

We were also fortunate to be part of a sharing arrangement for a fantastic all-around programmer, Mai Kha. Mai worked for the California Central District Court for several years and was recently hired by Alabama Northern Bankruptcy Court. She will be of great value to our court with her diverse background and great work ethic.

This summer we had the pleasure of working with two wonderful college interns, Jennifer Ward and Sam Willoughby. They did an amazing job for us and touched every facet of our office operations. In fact, they did so well that we are keeping Sam as a part-time employee when he goes back to Auburn University this fall. We would have kept Jennifer too, but she goes to school at Indiana Wesleyan University, and that was a bit too long to commute.

Lastly, we are pleased to report that the Administrative Office of Courts has selected our court to be a pilot court for a student training program. Specifically, we will partner with Alabama State University to hire a part-time IT intern for one school year. This student will work in our IT section and will be mentored by our fantastic IT staff.

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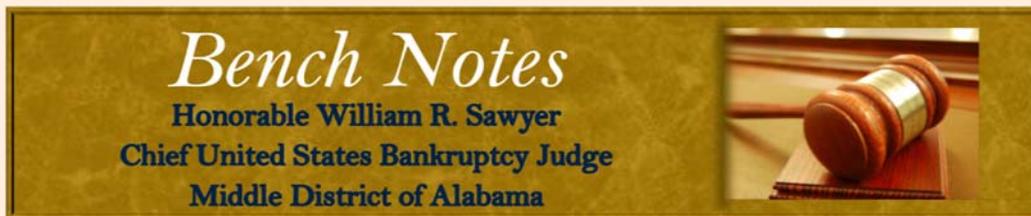
11th Circuit Annual Meeting: Every year all of the bankruptcy clerks and chief deputies of the 11th Circuit meet for a day and a half to discuss procedures, policies, budget, etc. In years past, we have always met in Atlanta or Orlando. For the first time ever, we convinced everyone to come to Montgomery. Also, for the first time ever, we included our IT directors as part of the meeting. It was a huge success!

Courtroom Upgrades: We continue to place a lot of emphasis on ensuring the technology in our courtrooms is up to date. In addition to recently upgrading all of the electronic equipment and wiring in all of our Montgomery courtrooms, we purchased much-needed new chairs for the Dothan hearing room and the Opelika courtroom. We are also upgrading our VTC systems in both Dothan and Opelika. Tonya Hagmaier continues to work on procedures for making our trials and hearings fully electronic as they pertain to evidence and exhibits.

Electronic Proofs of Claim (ePOC): On August 1st, our court went live on ePOC. Now, anyone can file proofs of claim online. Please go to <http://www.almb.uscourts.gov/electronic-proof-claim> for more information.

Attorney Advisory Group: On May 26th, we held our annual Attorney Advisory Group meeting. It was the first meeting for our newest members: America Cross, Jennifer Stanley, and Kristen Abbott. The remaining members are Bo Brown, Chuck Grainger, Paul Esco, and Cam Metcalf. You can find the minutes from the meeting at <http://www.almb.uscourts.gov/attorney-advisory-group-minutes>.

As always, please let us know if there is anything we could be doing better! Until next time...



“Motions to Strike” Shall Forevermore Be Called “Objections to Claim”

One who is owed money by someone who has filed bankruptcy and hopes to be paid must first file a claim. Actually, a claim is an intangible right to payment. As one cannot touch, taste, smell or feel a claim, one cannot file a claim in court. The piece of paper one files in the bankruptcy court is a proof of claim. Unfortunately, some creditors are like kids in a candy store and ask for more than they are actually entitled; that is, they say that more is owed on the proof of claim than is actually owed, which creates a problem.

Filed claims are automatically allowed unless someone files an objection. 11 U.S.C. § 502(a). An objection to a claim must be made in writing with a copy sent to the claimant. Rule 3007, Fed. R. Bankr. P. Thus far the process is simple: A creditor files a proof of claim, and if anyone has a problem with it—usually a debtor or a trustee, but sometimes another creditor—the person with the problem files an objection.

For reasons unknown to me, since time immemorial, many lawyers in this district will file something they call a “motion to strike claim.” As everybody local knows what the filer means, there is usually no problem. Once in a while, however, some city-slicker lawyer from out of town will show up and wonder just what in the heck a “motion to strike” is. This is inevitably embarrassing; it is like trying to explain some special code, known only to your children and their friends, to an adult from out of the neighborhood.

For future reference, lawyers who have a problem with a filed claim, or a filed proof of claim, should file (and send a copy to the claimant) an “objection to claim.”

Thank you for your continued support.

Attorney Contributions

Contribute to the Clerk's Office

Sam Willoughby, Summer Intern

In his opening article, Mr. Guerrero gave you a quick update on the members of the attorney advisory group. This committee gives the Court and members of the local bar the opportunity to exchange feedback and ideas.

At the meeting in May, Ms. Kristen Abbott suggested that the clerk's office file PDF versions of dismissal acknowledgments in addition to the docket text on CM/ECF. We took her advice, and are now attaching PDFs to the docket so all parties can easily print a hard copy of the acknowledgement. Thanks for the wonderful idea, Ms. Abbott!

If you have a tip or suggestion, please feel free to contact us anytime. If you would rather remain anonymous, please pass your suggestions on to an advisory group member.

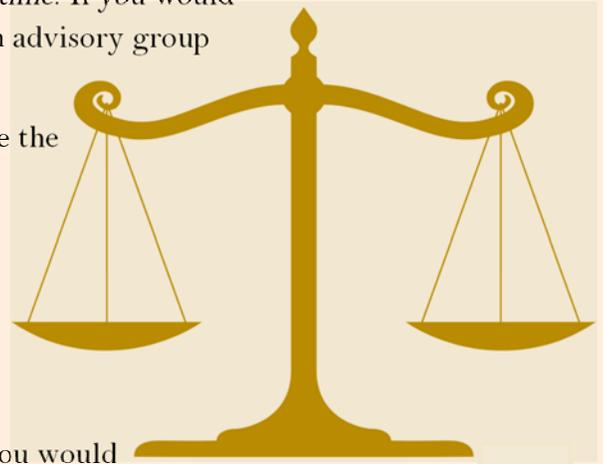
We are already preparing for our next attorney forums! Here are the dates, places, and times for the forums:

November 3rd in the Opelika courtroom at 10:30 a.m.

November 10th in the Dothan hearing room at 10:30 a.m.

November 17th in the 341 hearing room in Montgomery at 10:30 a.m.

If you have issues you would like to raise or recommendations you would like to make, feel free to let our chief deputy Tonya Hagmaier know ahead of time. That will give us time to prepare an answer and possibly implement a recommendation before the dates of the forums. You can reach Tonya at 334-954-3811. Please mark your calendars! We look forward to seeing everyone.



Proposed Amendments Published for Public Comment

Britt Griggs, Bankruptcy Administrator's Office

The Judicial Conference Advisory Committee on Bankruptcy Rules has proposed amendments to Bankruptcy Rule 3015 and has created Rule 3015.1. Proposed Bankruptcy Rule 3015 now provides that the official chapter 13 plan form must be used unless a local form has been adopted in compliance with Bankruptcy Rule 3015.1. Rule 3015.1, the committee says, handles the proposal for an official chapter 13 plan form. Because of opposition to a national form, Rule 3015.1 allows districts to create their own local plan forms instead of using the national forms. These local plan forms must contain the formatting and disclosure requirements specified in the rule.

From July 1, 2016 to October 3, 2016, people are encouraged to send in their comments on the proposed amendments. Giving three months for public comment will allow the rules to become effective on December 1, 2017. You may review the proposed amendments and submit comments by visiting www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment.



Treatment of IRS Claims in Chapter 13 Cases

Dee Dee M. Calhoun, Assistant United States Attorney

Wrangling tax issues in bankruptcy can be exhausting and time consuming. So here is a quick snapshot of some things you, as a bankruptcy practitioner, can do to avoid unnecessary delays or surprises related to federal tax claims in Chapter 13 cases.

Provide for Priority Tax Claims in Full - Pursuant to 11 U.S.C. § 1322(a)(2), chapter 13 plans shall provide for payment of all priority claims, including priority tax claims, in full, in deferred cash payments, unless the creditor has agreed to different treatment. Specifically, 11 U.S.C. § 507 (a)(8) sets forth the criteria for determining priority classification of taxes. Priority taxes include taxes which are due within three years of the bankruptcy filing and taxes which are assessed within 240 days of the bankruptcy filing. Other issues which affect tax classification include tolling due to prior bankruptcy filings and tax periods which are subject to examination. Generally, the IRS will not agree to different treatment, so the chapter 13 plan must make provision for full payment of the IRS priority claim through the trustee to be confirmable under § 1322(a)(2).

Consider Post-Petition Interest - A chapter 13 debtor may still owe the IRS after discharge. Post-petition interest on IRS claims continues to accrue during the bankruptcy case. The current interest rate is 4%, which is a recent increase from the former rate of 3%. (See IR-2016-84, June 6, 2016). Upon discharge of the Chapter 13 case, any accrued post-petition interest related to any non-dischargeable tax period, will come due and payable by the debtor. For guidance on how to classify post-petition interest in a chapter 13 plan, please read the Trustee Tips article in the December 2014 edition of *Court News & Views*. The article is on page 4.

Obtain IRS Transcripts - It is always a good practice to obtain copies of the debtor's IRS tax transcripts in each case involving federal tax issues. Requests for tax transcripts can be made online at <https://www.irs.gov/individuals/get-transcript>. There are four types of tax transcripts available. First, a Wage & Income Transcript reflects a debtor's income as reported to the IRS by outside sources. This type of transcript is particularly helpful when a debtor is claiming he or she had no tax return filing requirement for a disputed tax year. Second, a Tax Account Transcript reflects balances due and payments made for outstanding tax debts. This transcript is helpful in determining how much IRS debt needs to be scheduled in the case. Third, a Tax Return transcript is a computerized representation of a debtor's filed tax return. Submission of a Tax Return Transcript complies with 11 U.S.C. § 521 and is acceptable to the Chapter 13 Trustee as reflective of a filed tax return. Finally, a Tax Record Transcript is a combined Tax Return/Tax Account Transcript.

From the Clerk's Office

Proofs of Claim

Jennifer Ward, Summer Intern

On August 1, 2016, ALMB implemented a new feature for claimants, electronic proofs of claim (ePOC). This system allows infrequent creditors to file proofs of claims directly into ECF without needing an ECF account. The new feature is available on our website (<http://www.almb.uscourts.gov/electronic-proof-claim>). Claimants who use the new system will no longer have to mail claims to the courts and will receive immediate feedback that their claims were processed into ECF. However, if you still insist on filing paper proofs of claim you should follow the instructions below:

1. File a proof of claim on the new form for proofs of claim (Official Form 410).

Many creditors are still submitting their proofs of claim on outdated forms. On December 1, 2015, the Federal Judiciary updated all bankruptcy forms. For the correct form, visit our website, www.almb.uscourts.gov, click on the "Forms" tab, then select "Official Form 410 - Proof of Claim."

2. Do not print the proof of claim or any of its related documents front and back.

When the proof of claim or any of its attachments are printed front and back, our workers must make copies of the back of the sheets and re-scan the entire proof of claim to make sure no information has been left out. This results in a waste of time and paper. Please print your proof of claim on only the front of the sheet of paper. Doing so will ensure that none of your claim is missed.

3. Use letter size paper.

Similar to the previous issue, legal size paper causes issues when scanning the proof of claim. Some businesses use legal size paper when submitting payment charts or other financial information. If possible, please use letter size paper when printing out charts to make our electronic filing more efficient.

4. Sign the proof of claim with pen and ink.

A proof of claim must have a wet signature to be valid.

5. Send a copy of the proof of claim and a self-addressed stamped envelope to the clerk's office to receive a file-stamped copy back.

Creditors may send two copies of a proof of claim to the clerk's office; one will be entered in the case, and the other will be file stamped and sent back to the creditor. While sending two copies of the proof of claim is not required, many creditors choose to do so to keep a copy for their records. Recently, some creditors have included a self-addressed, stamped envelope with their proof of claim, but they failed to include two copies of the proof of claim. If you want a file-stamped copy of your proof of claim back, you must include two copies of the proof of claim and a self-addressed, stamped envelope in your original submission.

6. Redact sensitive information before submitting your proof of claim.

Social security numbers, dates of birth, and account numbers are all considered sensitive information that must be redacted from documents filed in a case. Rule 9037(a) and (b), Fed. R. Bank. P., lists information that should and should not be redacted. The rule states that the last four digits of a social security number, the year of the date of birth, and the last four digits of an account number are

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acceptable. Before submitting your proof of claim, check all of the documents and redact sensitive information.



CM/ECF Registration

*Rhonda King & Ramona Walker,
Case Administrators*

To register for a CM/ECF account, please do the following:

1. Go to www.almb.uscourts.gov.
 - Click on *ECF/Pacer* on the top red banner.
 - Next, click on *Register to File Electronically*.
2. Determine the CM/ECF access you need.
 - **Attorneys admitted to practice in the U.S. District Court for the Middle District of Alabama:** Full access. Whatever is filed under that name and password is deemed to have the attorney's signature on it.
 - ***Pro hac vice*:** Access is limited to the case for which your admission was granted. Attach the order granting your admission *pro hac vice* to the application.
 - **Creditor representatives:** Access is limited to filing claims as a creditor or appointed representative.
3. Fill out the registration form.
 - Complete the form using a computer. Include the email address where you want all correspondence and notices to be sent. Email the completed form to the following email address: ecfregistration@almb.uscourts.gov.

When we have built your account, you will receive an email from us giving you your username and a temporary password. You should change this password as soon as possible. To do so, do the following:

1. Login to your CM/ECF account.
 - On the main menu bar, select *Utilities*.
2. Under *Your Account*, select *Maintain Your ECF Account*.
 - Choose the *More User Information* button near the bottom of the screen.
 - Select the password field, and enter a new password.
 - Press the *Return to Account* screen button, then click *Submit* and follow the on-screen instructions.
 - Remember to keep your login and password safe, as it represents your signature on all electronic filings

With your ECF account, you may update your email address or add secondary email addresses to your account for others in your office to receive filing notices (see article below). If you want to deactivate an account, please email your request to the following email address: ecfregistration@almb.uscourts.gov. If you have questions about your CM/ECF account, please call our office at (334) 954-3800.



Updating Your ECF Email Address

DeAnna Williams, Data Quality Analyst

You must ensure that the email address associated with your ECF account is current and working properly. Our office receives rejected emails on a daily basis due to a variety of reasons, including “unknown email address,” “invalid recipient,” “no such user,” “server has sent too much mail,” and “not authorized.”

When you registered for ECF access, you agreed to keep your contact information current. If you fail to do so, the clerk may lock the account. You may update your account information at any time. To do so, login to ECF, then select the *Utilities* tab. Once there, select *Maintain Your ECF Account*. Once you have updated your information click *Submit*.



Filing Documents Under Seal

Sam Willoughby, Summer Intern

If a party believes a document or an attachment to a document meets the requirements for protection enumerated under Rule 9018, Federal Rules of Bankruptcy Procedure he or she must file a motion with the court to seal it. The following procedures apply.

To file a motion to seal, use the *Motion to Seal* event in CM/ECF. After filing the motion, you must submit the proposed sealed document separately using the *Proposed Sealed Document/Attachment* event. Do **not** attach the proposed sealed document to the motion. If only a portion of a document, e.g. an exhibit, meets the requirements for protection, file the non-sensitive portion of the document as you normally would, and file the proposed sealed portion as an attachment to the document using the *Proposed Sealed Document/Attachment* event. The *Proposed Sealed Document/Attachment* event will automatically seal the document or attachment.

If the motion to seal is granted, the movant must file the document or attachment again, this time using the *Sealed Filing* event. The document or attachment will be kept under seal by the clerk’s office unless ordered by the court to lift it.

If the motion to seal is denied, the proposed sealed document or attachment may be filed again, but **not** under seal. The original *proposed* document or attachment on the docket will remain on the docket permanently under seal, but it will not be taken into consideration by the judge over the course of the case.

Because the motion to seal and subsequent order will **not** be protected from public viewing, we strongly recommended you not include any potentially sensitive information in your motion.



Adding Special Counsel

DeAnna Williams, Data Quality Analyst

When you file a Rule 9007-1 Application to Employ a Professional Person, be sure to add yourself properly as a party to the case. In most instances, the attorney filing the application represents the debtor solely for an action outside of the original bankruptcy case. If you do not represent the debtor in the bankruptcy case, do not select the debtor as the party you represent when filing the application. Instead, enter *yourself* as the party. You will be added to the case as special counsel but not as the attorney for the debtor. Correctly filing your application will ensure proper noticing of any future pleadings by first class mail or email.



Quick Tips from the CAs	Quick Tips from the CRDs
<ol style="list-style-type: none">1. If your case has joint debtors, make sure both names are on all documents filed in the case.2. When filing petitions, make sure the debtor's social security number is correct. Also, make sure the name on the employee income records is the same as the debtor's name. Do not forget to submit the declaration regarding electronic filing with the petition, because this gives you permission to file documents for your debtors.3. When filing Rule 9007-1 motions, the negative language requires a response within 21 days, not 20 days.4. To make CM/ECF filings easier, customize the shortcut bar by clicking on the hammer icon to display your most accessed areas.5. Hard copy pleadings must have original wet signatures.	<ol style="list-style-type: none">1. When you file a new case for repeat filers, if you plan to file a motion to extend stay, do it immediately because the motion must be heard within 30 days of the date the case was filed. Also, remember to serve the order setting the hearing on all creditors.2. When you convert a case, make sure you add to the matrix any new creditors as of the date of the conversion.3. When the court or a trustee docket a continued hearing, do not docket the hearing again. Simply file your certificate of service when it is complete.4. When you file a motion to lift a co-debtor's stay, make sure you list the complete address of the other co-debtor and serve him or her properly.5. When you docket an objection in CM/ECF, select the answer category, not the miscellaneous category. This will ensure that the objection is handled in a timely manner.6. Before trial, counsel should compare the list of exhibit numbers with their actual exhibits. Make sure there are no blank pages in the exhibit list.



Payee on Remittances

Janet Clark, Financial Administrator

We have recently received a number of money orders and cashier's checks payable to "Juan-Carlos Guerrero," instead of "Clerk, U.S. Bankruptcy Court." In the future, **please make out your cashier's checks and money orders to "U.S. Bankruptcy Court."** This will eliminate a lot of confusion for your clients and will ensure their cashier's checks and money orders can be deposited promptly.



ALMB Refund Policy

Tonya Hagmaier, Chief Deputy

We recently updated our policy for refunding monies when filing fees have been overpaid. The policy has been reproduced below for your information:

1. Overpayments due to administrative or technical errors on the part of the clerk's office will be refunded automatically.
2. Except for trustees, overpayments of \$25 or less made by any party will be forfeited because the cost of issuing the refund greatly outweighs the actual refund.
3. The clerk's office will notify parties through CM/ECF of overpayments greater than \$25. To receive a refund of the money, a party must file a motion for refund within 30 days of the date that the clerk's office enters the notification on the docket. Overpayments will be forfeited if no motion is filed within 30 days.

NOTE: If a filing fee is being paid through a chapter 13 plan, then all payments should be timely made directly to the chapter 13 trustee. If you receive a notice that fees are due, please do not automatically pay the court. Simply check with the trustee to make sure they have received all payments. The trustee will forward the money to the clerk's office. The clerk's office will not dismiss a case without first checking with the trustee to verify whether or not all payments for fees were actually received.



ALMB Hosts the Annual 11th Circuit Clerks and Chief Deputies Meeting

Henrietta Foster, HR Manager & Jennifer Ward, Summer Intern

On June 23rd and June 24th, our office hosted the annual meeting where all of the clerks and chief deputies from the 11th Circuit bankruptcy courts meet to discuss bankruptcy news and Judiciary updates. For the first time, IT directors joined the meeting and had their own breakout sessions to review advancements in judicial technology.

The Honorable W. Keith Watkins, Chief, United States District Judge, Middle District of Alabama, joined our bankruptcy judges, Judge Sawyer and Judge Williams, in welcoming attendees. Speakers included Laura Minor, Joe Peters, and Gary McCaffrey from the Administrative Office of the United States Courts, Eddy Emmons from the Northern District of California bankruptcy court, and many other Administrative Office and bankruptcy court leaders. Cyber security, financial administration, and clerk's office issues and procedure were among the many issues discussed.

Since this was the first year Montgomery was chosen to hold the meeting, our staff worked hard to make the attendees feel welcomed. Days leading up to the conference, employees cleaned and organized every inch of the office. Our staff provided transportation for the guests to and from the airport, hotel, and courthouse. We also had employees make breakfast casseroles, shop for snacks, and serve lunch.

The meeting was a huge success! Clerks, chief deputies, and IT directors all benefitted from the information they received, and we look forward to hosting the meeting again in the future.

ALMB's Annual Awards Day Honors Office, Judges

Jennifer Ward, Summer Intern



Honorable William R. Sawyer and Honorable W. Keith Watkins

On August 12th, our office held our annual teambuilding and awards day. Every year, our office gathers for one day to learn about teamwork, leadership, and goals; recognize our accomplishments; and congratulate staff members on their exceptional work.

Our speaker this year was Dawn Cook. Dawn is an executive coach at Daybreak Enterprises, a company that specializes in developing communication in the workplace. She spent the morning teaching us about the value of emotional intelligence and its influence on communication and relationships in the office. In the afternoon, she led us in a series of games (pictured right) that were both fun and challenging. We appreciate her wisdom and will carry her lessons with us throughout the coming year.

In addition to our speaker, Mr. Guerrero spoke to the staff about the great work that has been done this past year. He reviewed our office's 2016 fiscal year goals and noted how each one was met. He also highlighted several other FY 2016 accomplishments. Our office is looking forward to doing even better in the new fiscal year.

The Honorable W. Keith Watkins, Chief, United States District Judge, Middle District of Alabama, joined our celebration to recognize our own bankruptcy judges, Chief Judge William R. Sawyer (pictured above) and Judge Dwight H. Williams, Jr., for their service. Judge Sawyer has served in the federal government for 30 years and Judge Williams has served in the Judiciary for 35 years. We are proud of our judges and their long years of service.



Ninth Annual Black History Celebration

Henrietta Foster, HR Manager



Honorable Myron Thompson and Dr. Gwendolyn Boyd

In February, the bankruptcy court hosted its Ninth Annual Black History Program. The Honorable Myron H. Thompson, Senior Judge, Middle District of Alabama, presided over the ceremony. The theme for the program was “One Person Can Make a Difference.” Under the direction of Dr. Wendy R. Coleman, members of ASU’s theatre department performed a skit titled “The Creation of Historically Black College Universities.”

ASU’s president, Dr. Gwendolyn E. Boyd, was the keynote speaker for the event. Dr. Boyd delivered a thought-provoking message on the importance of celebrating and honoring those who have made a difference in history. She stressed that we must be aware of the seven deadly social sins:

- ◇ Wealth without work
- ◇ Pleasure without conscience
- ◇ Education without character
- ◇ Commerce without morality
- ◇ Science without humanity
- ◇ Worship without sacrifice
- ◇ Politics without principle

Judge Thompson presented Dr. Boyd with a beautiful sketch of the courthouse as a thank you for her inspirational words. Following the program, guests enjoyed a luncheon sponsored by the bankruptcy clerk’s office.

IT Insights: Mute the Mics

Brian Suckman, Information Systems Manager

During conference calls or telephone docket calls, please mute your telephone’s microphone, especially if you are using a conference phone or speaker phone. If you have clients calling into a telephone docket, make sure they know to mute their microphones until the judge calls their case. By following this simple tip, background noise will be lessened and all parties will be heard without interference.



The Spotlight’s on You

Henrietta Foster, HR Manager

This year marks significant milestones for several bankruptcy court employees. On August 12, 2016, the bankruptcy court honored these employees for their years of service.



In the photo above from left to right are DeAnna Williams, data quality analyst (25 years); Yvonne Pelham, case administration supervisor (30 years); Linda Bodden, financial specialist (15 years); and Bill Livingston, courtroom deputy (25 years).