

COURT

News & Views

Our Mission...

TO UPHOLD
THE INTEGRITY OF
THE BANKRUPTCY
PROCESS AND
INSPIRE PUBLIC
CONFIDENCE BY
PROVIDING
PROFESSIONAL,
COURTEOUS AND
EFFICIENT SERVICE.

VOLUME 4

NOVEMBER 2012

Welcome to the 4th edition of our newsletter! We have had a busy yet productive six months since our last newsletter. Here are some highlights:

Office Retirements

As some of you may know, the Federal Judiciary is facing some sizable budget constraints. In response to the projected budget shortfall for fiscal year 2013, we provided incentives to some of our employees to retire. As the saying goes, be careful what you ask for. On September 28, we said goodbye to four outstanding co-workers as they retired from federal service. We lost three case administrators (Donna Wilcox, Joyce Thorn, and Claudia Osborne) and one of our court-room deputies (Janice Vance). Unfortunately, our workload has not decreased. In fact, we are one of the few courts in the country with an increase in filings for the 12-month period ending on September 30, 2012. We still have a fantastic staff of professionals who are working harder and still maintaining a positive attitude. We have also taken steps to help us handle the loss of manpower. For example, we reorganized by shifting more personnel to case administration and we implemented some new computer programs that provide some efficiencies to our case administration processes. Nevertheless, we are still doing more with less. Bottom line: our mission remains the same—our main focus is still on customer service. Please let me know immediately if you ever notice any diminution of service.

Clerk's Corner

JC Guerrero

Attorney Advisory Group

We held our annual Attorney Advisory Group meeting here in our office on November 15th. As usual, it was a productive meeting with great discussion. Minutes from these meetings can be found on our webpage by clicking on Attorney Resources. We will post the minutes from our recent meeting as soon as possible.

In 2010, from a list of volunteers, our judges appointed our first Advisory Group consisting of seven local attorneys. The purpose for forming this Group was to receive input from the local bar regarding matters of bankruptcy administration. The seven attorneys currently serving on the group (and also part of the original group) are Gail Donaldson, Rafael Gil, Sandra Lewis, Marsha Mason, Nick Parnell, Paul Spina, and George Thomas. During our first meeting in 2010, the attorneys were randomly assigned either 3-year terms or 2-year terms. Based on those term assignments, we will lose Gail Donaldson, Rafael Gil, Sandra Lewis, and George Thomas at the end of this year. Thank you for your time and service to the court.

CLERK'S CORNER (Continued from page 1)

We are now looking for four new members to serve on the Advisory Group. If you are interested in serving or if you have any questions about serving, please send an e-mail to IT@almb.uscourts.gov (attention JC or call me at (334) 954-3800). If you want to know more about what it is like to serve on the Advisory Group, please feel free to also contact any of the attorneys listed above.

Opelika Courthouse

It looks like we are finally going to begin the renovation to the courthouse in Opelika. The project has been a long time coming. The renovation is now slated to begin in the month of December and will last approximately six months. While the renovation is taking place, the entire courthouse will be closed. We have made arrangements with the City of Opelika to borrow their City Council Hearing Room across the street from the courthouse. We will hold our court hearings and the 341 hearings there. We are thankful for our great relationship with City of Opelika.

Attorney Forums

We will hold our next series of attorney forums in the spring. As we have done the past, we will hold one in each of our divisions—Montgomery, Dothan, and Opelika. We will post the exact dates on our webpage as soon as we have them.

In closing, I hope you enjoy this edition of our newsletter and that you find it useful. Thank you all for your continued support of our court. As always, please give us feedback—the good and the bad. We really want to know how we are doing. Also, please continue to check our webpage regularly for important announcements—www.almb.uscourts.gov.

Interesting trivia...



The Frank M. Johnson, Jr. Federal Building was built on the property in which the Court Street Methodist Church (known now as First United Methodist Church) once stood. The courthouse was completed in 1933 and was designed and constructed by two well known Mont-

gomerians, Frank Lochwood (architect), and Algernon Blair (builder). The federal courthouse complex now encompasses a full city block known as 1 Church Street and links together a historical courthouse and a modern day courthouse designed by Montgomerian Lee Sims, which opened to the public in 2002.



BENCH NOTES



Contributed by : **Honorable William R. Sawyer**
U. S. Bankruptcy Judge

DISCLOSURES IN BANKRUPTCY CASES: TIPS AND TRAPS IN THE PREPARATION OF SCHEDULES AND STATEMENTS

I. INTRODUCTION

Debtors are required by the Code to file a complete set of schedules and statements on forms prescribed by the Judicial Conference of the United States. §521; Rule 9009.¹ The schedules and most of the statements must be signed by the debtor under the penalties for perjury. Lawyers who file false schedules are subject discipline from the bar and subject to sanctions pursuant to Rule 9011. The failure to file accurate statements and schedules may result in dismissal of a case or denial of discharge. The purpose of this paper is to provide practitioners guidance and to point out common problem areas, with suggestions as to how ensure that disclosures are made properly.

II. THE STATEMENT OF FINANCIAL AFFAIRS

The Statement of Financial Affairs. In my experience this appears to be biggest problem area and the most fertile ground for misstatements. The following are common errors:

- A. Every question has a check box if the answer is none. Do not check "none" unless that applies. In small consumer cases, the answer to many of the questions may well legitimately be "none." The practitioner may build up a head of steam answering "none" when in fact a disclosure should be made. Misstatements of this kind are easily shown to be false and can cause a real problem if a debtor is looking at losing his discharge or having his case dismissed.
- B. Question 1 asks for income from employment or operation of business. The question clearly asks for gross income, not net, yet practitioners frequently list net income. This is frequently a problem in the small business cases, where a debtor may have significant gross income but little or no net income. The disclosure of gross

¹ Unless otherwise indicated, all citations are to the Bankruptcy Code (11 U.S.C.) or the Federal Rules of Bankruptcy Procedure.

BENCH NOTES (Continued from page 2)

income gives an indication as to the size of the debtors business. Indicating no net income, without an indication of gross will mislead the reader as to the size of the debtor's business. Also, this calls for information for the year-to-date and the two prior years. Practitioners frequently fail to provide all of the requested information.

- C. Question 3 asks for payments to creditors. The information is frequently incomplete or inaccurate. For example, Question 3(a) calls for payments on loans. Debtors will frequently claim they are current on the mortgage or car payment, but not list any payments in Question 3(a).
- D. Question 4 asks for information on lawsuits and garnishments. The information is frequently inaccurate or missing altogether, yet debtors frequently have either filed lawsuits, been sued, or both.
- E. Question 9 asks for payments to bankruptcy lawyers. This should be consistent with the information contained in the Rule 2016(b) statement filed by the lawyer. Any discrepancies should be explained.
- F. Question 10 asks for "other transfers." Any significant transfers made within 2 years should be disclosed. In cases of actual fraud, this is probably the biggest problem area.

III. SCHEDULES A-J

In my view, the second largest problem area, after the Statement of Financial Affairs, is in the schedules, particularly Schedules A-J, which must be signed by the debtor under the penalties of perjury. Some judges and commentators might disagree, contending that they are the most serious problem area. I would not quarrel too vociferously with them. Here are problem areas I have observed frequently:

- A. Schedule A calls for a list of real property. Debtors on occasion will fail to schedule property, but by far the more common problem is a misdescription of the property, or the interest in the property and inaccurate values. A debtor is not required to have his property surveyed or appraised, however, he should have a reasonable basis for the values and descriptions that are put in the schedules.
- B. Schedule B calls for a listing of personal property, consisting of 35 subparts. Omissions and improper valuations are common. Also, intangibles, like bank accounts and stock in closely held corporations are frequently omitted. A claim which could give rise to a lawsuit is an intangible that must be listed (see Question B-21). A catchall is provided at B-35. Basically, everything the debtor owns should be listed somewhere either on Schedules A or B.
- C. Schedule C is for property claimed as exempt. Everything listed on Schedule C should be readily identifiable in either Schedules A or B. Moreover, if the Alabama wildcard exemption is claimed, the dollar limitation is \$3,000 (or \$6,000 for joint cases), See, Ala. Code §6-10-6. One problem area

here is in cases where the Debtor takes the position that an asset is "excluded" from the estate pursuant to §541(b) or (c), it should nevertheless be disclosed, with a notation as to why it is excluded. The schedules do not explicitly require such property to be listed, but if the debtor or his lawyer are incorrect about the exclusion, they have defrauded the estate and filed false schedules. For example, if a debtor owns an interest in a spend-thrift trust, it is excluded from the estate under §541(c)(2). The interest should be listed in Schedule B and then exempted, or excluded in Schedule C. Leaving the interest off the schedules completely raises troubling questions that the careful practitioner would rather avoid. When in doubt, disclose.

- D. Schedule D contains a listing of secured claims. Every piece of property which serves as collateral for a loan should be readily identifiable in Schedule A or B. When like items of personal property are grouped, as in furniture or sporting goods, the groupings should be consistent from Schedule B to Schedule C.
- E. Schedule E calls for a listing of priority claims. When taxes are owed, the kind of tax and taxable year or period should be indicated so that priority status can be easily verified.
- F. Schedule F calls for unsecured claims. The date the claim was incurred is frequently omitted and the consideration for the claim is frequently either omitted or described in so general a fashion as to be of little use. If the debt is for a revolving charge account, the term "various" can be used, otherwise, a date should be provided. Some practitioners check all of the columns for "contingent, unliquidated and disputed." It is not possible that every debt owed by a debtor is contingent, unliquidated and disputed. At the opposite extreme, some practitioners never check any of the boxes, even if appropriate.

IV. THE PETITION

The petition in bankruptcy is a seemingly simple form to file, but mistakes are frequent. The petition is also filed under oath and it is the first thing that the judge, and trustee see. Here are the most frequent problem areas:

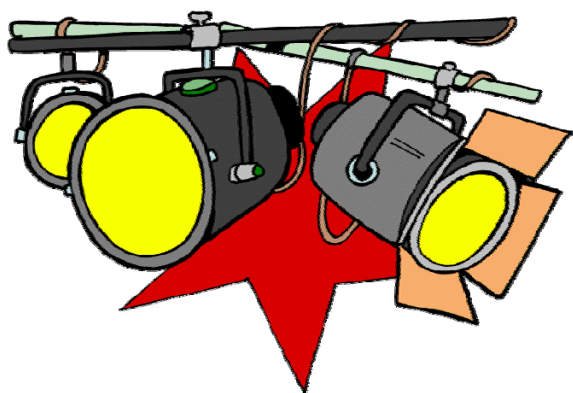
1. Prior case filings within the last 8 years. The practitioner should do a search by the debtor's social security number in both the national PACER website, as well as the local CM/ECF database. It only takes a minute and can save the practitioner a lot of grief if a debtor is a frequent filer.
2. Exhibit D covers disclosures concerning credit counseling. Since 2005, debtor must obtain a credit briefing prior to filing.
3. Address and venue information must be provided. Lawyers who have played fast and loose with this information have come to no end of grief. In some instances, a debtor or his lawyer may be judge shopping, trustee shopping, or

BENCH NOTES (Continued from page 3)**V. DISCLOSURE OF COMPENSATION**

The Disclosure of Compensation Statement, sometime called Rule 2016(b) Statement is filed by the lawyer for the debtor. It is not filed under the penalty of perjury, but the lawyer "certifies" that it is correct. Omissions can result in a lawyer being required to disgorge his fee. The form is relatively simple and while cases where lawyers have intentionally misstated their fees are rare, misstatements, even if unintentional, can result in serious problems. The lawyer should carefully review the form when he files it and should check periodically to see if it should be amended. Rule 2014(b) requires that a statement be filed within 14 days of the date of the petition and supplemented within 14 days of any new agreement or payment.

VI. CONCLUSION

There are two general rules which always apply. First, read the question carefully so that you understand what is called for. Second, when in doubt, disclose. Incorrect and inadequate disclosures are always a good "make weights" for fraud and denial of discharge cases. To avoid the unnecessary loss of a discharge or a dischargeability proceeding, make sure disclosures are properly made.





IN THE SPOTLIGHT

Normally, we spotlight one of our employees in this column. However, considering what has happened to our office recently in losing four employees to retirement (three case administrators and a courtroom deputy), we thought it would be appropriate to spotlight a team and not an individual. So, this newsletter's spotlight is on our case administrators: Cynthia Sanders, Rhonda King, Desma Russell, Elizabeth Walker, Linda Overton, Ramona Walker, Janet Ingram, and Carrie Moore. Additionally, DeAnna Williams has been assigned a case administration digit to go along with her other duties. These ladies all deserve to have the spotlight on them as they have all stepped up in taking on more work while maintaining outstanding attitudes. We are all very proud of this team and thankful for their efforts!

NEW CASE DIGIT ASSIGNMENTS

(Assignment is by last digit of case number)

Yvonne Pelham		Case Adm. Supervisor	954-3859	yvonne_pelham@almb.uscourts.gov
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Dianne Segrest		Sr. Case Administrator- Team Leader	954-3856	dianne_segrest@almb.uscourts.gov
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Ramona Walker		Digit 0	954-3838	ramona_walker@almb.uscourts.gov
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Cynthia Sanders		Digit 1	954-3858	cynthia_sanders@almb.uscourts.gov
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Desma Russell		Digit 2	954-3847	desma_russell@almb.uscourts.gov
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Carrie Moore		Digit 3	954-3842	carrie_moore@almb.uscourts.gov
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Linda Overton		Digit 4	954-3852	linda_overton@almb.uscourts.gov
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DeAnna Williams		Digit 5	954-3853	deanna_williams@almb.uscourts.gov
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Intake Counter	n/a	Digit 6	954-3800	yvonne_pelham@almb.uscourts.gov
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Rhonda King		Digit 7	954-3855	rhonda_king@almb.uscourts.gov
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Elizabeth Walker		Digit 8	954-3843	elizabeth_walker@almb.uscourts.gov
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Janet Ingram		Digit 9	954-3814	janet_ingram@almb.uscourts.gov
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Contributed by
Teresa R. Jacobs
Bankruptcy Administrator

Meetings of Creditors Continuances and Appearances

Local Bankruptcy Rule 2003-1 addresses the local practice of continuances and appearances and can be found on the Court's website. In cases under chapters 7 and 13, the trustee should be contacted for a continuance date. In a chapter 11, case continuances are sought through the Bankruptcy Administrator.

Motions should not be filed with the Court unless an attempt has been made to resolve the matter informally. The Rule also addresses excusal of debtors in cases of dire necessity which does require a motion, and the required supporting documentation.



A BITTER SWEET FAREWELL TO FOUR COLLEAGUES

Contributed by
Henrietta Foster, HR Manager

Back row (L to R): Joyce Thorn 23 yrs.; Janice Vance 30 yrs.

Front row (L to R): Donna Wilcox 34 yrs.; Claudia Osborne 22 yrs.

Friday, September 28, 2012 marked an unprecedented day in our

court's history as we offered bitter sweet farewells to four special ladies. The combined federal service of these ladies totaled an incredible 108 years. Donna Wilcox (34 yrs.), Janice Vance (30 yrs.), Joyce Thorn (23 yrs.) and Claudia Osborne (21 yrs.) were honored at a retirement luncheon hosted by the Clerk's office. Over 120 colleagues, friends, and family were present. Each lady was honored with heartfelt praises from colleagues and friends. The luncheon was a memorable event shared by all present.

At the time of their retirement, Donna, Joyce and Claudia all served as case administrators, and Jan as a courtroom deputy for Chief Judge Dwight Williams. As an old saying goes, "Retirement is like life's encore. You've put in an awe inspiring performance and now it's time to take a bow and get on with the real show!" We will miss the work ethic, knowledge, and dedication of these four ladies. We wish them each the very best that retirement has to offer!

The role of the Law Clerk

Contributed by
Laura Schwartz (Clerk to Chief Judge Dwight H. Williams, Jr.)
and
Jerrod Maddox (Clerk to Judge William R. Sawyer)

Clerking in Bankruptcy Court has been an incredibly eye-opening experience. In just three short months on the job, we have likely learned and grown more than we have over three whole years in law school. Of course, we knew that the real-world experience would be qualitatively different from any academic exercise, but there are certain distinct features of bankruptcy court practice that make it all the more rewarding. Bankruptcy court is unique in that it most often features a repeat cast of characters, meaning that not only are we dealing with the same subject matter repeatedly but also the same attorneys. Particularly striking is the congenial atmosphere in the courtroom and the camaraderie amongst debtor and creditor attorneys. Coming to this job straight out of law school, seeing such genial and accommodating displays in the practice of law is encouraging.



In law school, we learn a cold, academic view of the practice that often seems defined by rules and unforgiving forms. The atmosphere is often competitive and cut-throat. However, among the local practice group, we rarely see attorneys attempting to undercut each other with form over substance arguments. Rather, the atmosphere seems to be one that is more forgiving of another's shortcomings in an attempt to make the case work smoothly. The relationships that they build become currency within the field and can be a real asset to their clients. That is not to say that we do not see attorneys competing forcefully with one another on behalf of their clients, but within that competition there is a willingness to work together.

LAW CLERKS ROCK

The only caveat to this is that we hope not to send the message that the local attorneys should *always* settle their differences in an accommodating and friendly fashion. To be clear, we do hope and expect to see some contested trials before our terms are up.

Fiscal Year ALMB Filings Slightly Up

According to a recent Administrative Office press release, national bankruptcy filings were down 14% for the 12 month period ending September 30, 2012 while total filings in the Middle District of Alabama were up just over 1% for the same period. In fact, ALMB was one of only three districts in which total filings increased, the other two being Guam and the Virgin Islands.



ELECTRONIC NOTICE OF RETURNED BNC MAIL

On October 15, 2012 the Bankruptcy Noticing Center (BNC) began accepting, processing, and securely disposing of returned mail. For the bulk of returned mail, a unique barcode on each envelope will be scanned in order to identify the envelope contents, and generate an email notification of the return mail to the debtor's attorney. This will be done without the need to open the envelope, nor will the actual envelope be returned to the debtor's attorney.

A 2011 study revealed that an estimated 736,000 mail pieces are returned to the bankruptcy courts each year, containing approximately 1,040,000 notices. The new procedure is expected to reduce Judiciary postage expenditures by up to \$1.25 million per year.

New Mortgage Modification Event

A new Motion to Modify Mortgage event was recently added to the ECF event menu. When applicable, please use this event in lieu of the generic motion event.



Amended Rules Effective December 1, 2012

Contributed by:

Doug Young
Chief Deputy Clerk

Unless Congress enacts legislation to the contrary, new rules amendments and forms approved by the Judicial Conference will take effect on December 1, 2012. Of particular interest is amended Rule 3001, which imposes additional requirements on holders of claims based on an open-end or revolving consumer credit agreement, such as a credit card debt.

Rule 3001 – Rule 3001(c)(1) is amended to provide an exception as to documentation of claims governed under new paragraph 3001(c)(3). The proposed new paragraph (3) requires that claims based on an open-end or revolving consumer credit agreement provide the following information:

- i. The name of the entity from whom the creditor purchased the account;
- ii. the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;
- iii. the date of an account holder's last transaction;
- iv. the date of the last payment on the account; and
- v. the date on which the account was charged to profit and loss.

Further, on written request by a party in interest, a holder of a claim based on an open-end or revolving consumer credit agreement must also provide, within 30 days of the request, a copy of the writing on which the claim is based.

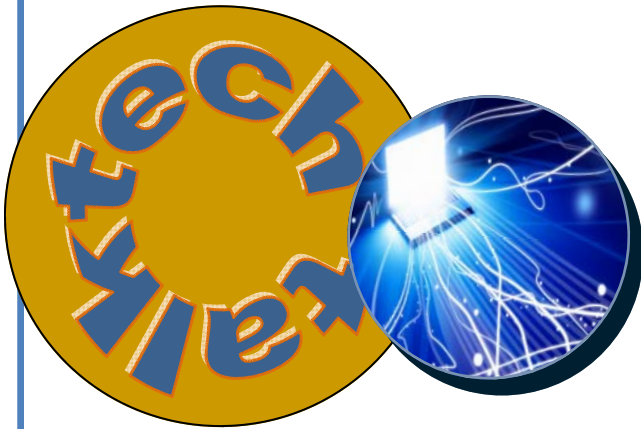
Rule 7054 – This proposed amendment to subdivision (b) of Rule 7054 provides more time for a party to respond to a prevailing party's bill of costs by extending the deadline from 1 day to 14 days. In order to conform to the 2009 time computation amendments, the amendment also extends, from 5 days to 7 days, the time to seek a court review of costs taxed by the clerk.

Rule 7056 – Rule 7056 makes Fed. R. Civ. P. 56 applicable in adversary proceedings. Under Rule 9014(c), Rule 7056 also applies in contested matters unless the court directs otherwise. Civil Rule 56 was amended in December 2010 to impose a default deadline for filing a motion for summary judgment of 30 days from the close of discovery. Because hearings in bankruptcy cases sometimes occur shortly after the close of discovery, the amendment to Rule 7056 provides an exception by setting a default deadline for filing a summary judgment motion of 30 days before the initial date set for an evidentiary hearing.

Technical Amendments and Forms – Technical and conforming amendments have also been made to Rules 1007(c), 2015(a), and 3001(c)(1). For a complete listing and description of amendments to bankruptcy forms, please visit the uscourts.gov webpage under [Pending Changes in Bankruptcy Forms](#).

For more detailed information regarding these pending rule amendments as well as a redline version of the rules, please visit the ALMB homepage and look under Announcements for either a PowerPoint or PDF summary. A Prezi presentation is also available at prezi.com/65uudpojzjx7/amendments-to-federal-rules-of-bankruptcy-procedure.





Contributed by
Scooter LeMay
IT Director

Case Management /
Electronic Case Filing (CM/ECF),
Release 5.0 recently became
available and we will be upgrad-
ing our software in the next sev-
eral weeks. Once our testing
phase is complete and a go-live
date is determined, we will let

everyone know on our webpage. Once live, external users will acquire new fea-
tures to enhance the electronic filing experience. Detailed information on these
new features can be found at [http://www.almb.uscourts.gov/cmecf/
BKECF50_overview.pdf](http://www.almb.uscourts.gov/cmecf/BKECF50_overview.pdf). Here is a summary:

- Users will be able to access another court in PACER or use the PACER Case Locator without leaving CM/ECF.
- Attorneys will be able to terminate themselves from cases in limited circumstances.
- Users will have more flexibility in customizing a docket report.
- Users will be able to see the number of pages for documents on the docket sheet.
- Users will be able to see new dates and deadlines on the docket report.
- The claims register link will appear when a case has claims.
- The docket activity report will include time filters.
- Users will be able to view all hearings without including 341 meetings.
- New query options have been added:

Filed date range	Last entry date range	Nature of suit
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If you need more information on this upgrade, contact our Information Technology Department by email at IT@almb.uscourts.gov or phone at (334) 954-3870.



Holiday Schedule

PLEASE TAKE NOTE OF
THE HOLIDAY SCHEDULE FOR THE
UNITED STATES COURTHOUSE
MONTGOMERY, AL

CHRISTMAS

Monday and Tuesday
December 24 & 25, 2012

NEW YEAR 2013

Monday
December 31, 2012
and
Tuesday
January 1, 2013

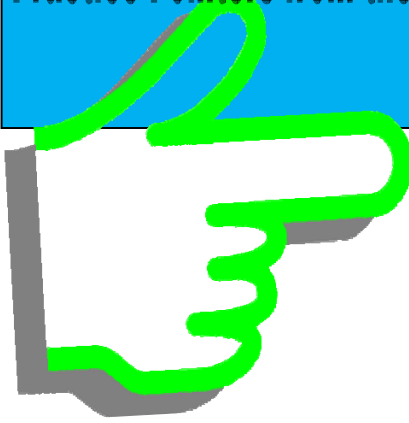
**Happy
New Year
2013**

NEW TRUSTEE ECF EVENT

An Amended Trustees Summary of Plan to Comply with the Applicable Commitment Period was recently added to ECF. The event is only available to the Chapter 13 Trustee and is used by the trustee to give notice that the percentage to unsecured creditors is increased to maintain the applicable commitment period pursuant to §1325(b)(4).

Practice Pointers from the Chapter 13 Trustee

Contributed by Sabrina McKinney
Attorney | Chp. 13 Trustee



As time goes by, we sometimes have procedures that change or need reminders about procedural issues when new staff comes through our offices. We

thought this newsletter would be a good opportunity to share some thoughts with you about procedural issues in chapter 13 cases.

Tax returns: Since BAPCPA, debtors have been required to provide copies of their most recent tax return to the trustee no less than 7 days prior to the 341. Over time, this has dwindled down to a practice of the debtors sending the returns the day before the 341 or even bringing them to the 341. It takes a great deal of time for the trustee to work up 341s and one of the things that is done in that process is to remind you if you have not sent the tax returns. It would be a great savings of time for all of us if the debtors would be required to bring their tax returns to their attorney at the time of their filing consultation and for the attorney to email the tax returns to the trustee as soon as they are received. The chapter 13 trustee has set up an email box specifically for receiving the pre-341 tax returns. The email address for tax returns is:

taxreturns@ch13mdal.com. When attorneys come from out of district, they sometimes file the debtor's tax returns with the Court, not realizing that the trustee does not have access to the tax returns through ECF. So, please adhere to our local policy of emailing tax returns directly to your trustee (both in 13 and in 7). Please include the debtor's last name, case number, and 341 date in the subject line of the email you send with tax returns attached. If you need the tax return email address for a chapter 7 trustee, you may find it on the Bankruptcy Administrator's website at www.almba.uscourts.gov.

Income order requests and DSO information: The chapter 13 trustee also has an email address which is designed for receiving income order requests and DSO (domestic support obligation) information from debtors' attorneys. Our income order and DSO info email box is 13trustee@ch13mdal.com. Please state in the subject line of each email the debtor's last name, case number, and if it is an income order request or DSO information email.

Email notices from the trustee: The trustee sends all correspondence to attorneys via email. So please be sure that you keep your email address current with the trustee's office as well as with the Court. Some of you have email addresses that you prefer us to use that are not the same addresses the Court uses for ECF. If you have a preferred address different than your ECF address, please provide us with your preferred address for notices from the trustee. You may email your preferred email address to mckinneys@ch13mdal.com.

Lastly, in an effort to help speed up 341s, the trustee has four specific requests regarding schedules in chapter 13 cases that will help cut down on questions and confusion at the 341s by debtors and attorneys alike:

Debtor's schedule A: On schedule A, it is very beneficial to the trustee for the debtor to list how they arrived at the value of the debtor's real property. If the value was obtained from an appraisal, the tax assessor, or some other source for valuation, please state in the property description how you arrived at the value listed on schedule A. If the property is jointly owned with a non-filing spouse or some other non-filing party and you are only listing one half of the entire value of the property on schedule A as the debtor's portion, please state in the property description that the value listed on schedule A is one half the entire value (or whatever percentage of the total value that belongs to the debtor).

Debtor's Schedules I and B22C: Schedule I provides that the debtor should state how long they have been working for their current employer. This is a common item that is left blank on schedule I and it provides very helpful information to the trustee. The trustee requests that a special effort be made to list the term of the employment of the debtor on Schedule I as it helps cut down on the numerous questions that the trustee has to ask the debtor about their current income and their income during the six-month period prior to the filing of the case. If there is a difference in the debtor's gross income as listed on Schedule I versus the debtor's gross income as listed on B22C, it would be very beneficial to the trustee if a reason for the difference was given. If it is a below median income case, then use the bottom section of Schedule I to explain any differences in income or special circumstances with the debtor's income that you may want the trustee to consider. If it is an above median income debtor, then explain the difference in income on Line 57 of B22C for special circumstances deductions.

Case closure in paid out chapter 13 case entitled to a discharge: Just as a reminder, Local Rule 4004-1 provides that the debtor should file their motion for discharge within 30 days of the trustee's filing of the notice of completion of plan payments. The debtor should not file a motion for discharge until after the trustee has filed the notice of completion of plan payments. The filing of the notice of completion is the trustee's notice to the debtor and all creditors that the plan payments have been completed, the case has been audited for closure, and all claims have been paid pursuant to the terms of the debtor's confirmed plan. If the debtor files a motion for discharge prior to the trustee's notice of completion, the trustee may object to the debtor's motion as the plan has not been completed, the case has not been audited, and the creditors have not been given notice that their claim has been paid per the debtor's plan.

(Continued on page 10)

PRACTICE POINTERS (Continued from page 9)

Case closure in paid out chapter 13 cases not entitled to a discharge:

If the debtor completes the plan payments in a case that is not entitled to a discharge, the case is still audited for correctness just as if the debtor was going to receive a discharge. After the case is audited, the case is reviewed to confirm if the debtor is entitled to a discharge and an email is sent to the debtor's attorney to advise them that the case is paid out and is in the process of being closed. The email advises the debtor's attorney that the trustee's review of the case indicates that the debtor is not entitled to a discharge and asks them to contact Sabrina McKinney if they disagree with the no discharge assessment in the case. The email also asks the attorney to please file a notice of ineligibility for discharge to help expedite the closure of the no discharge case. The trustee is still required to file a notice of completion of plan payments, even if the debtor will not receive a discharge. If the debtor does not file their notice of ineligibility, the clerk sends two separate notices of discharge requirements and the case will remain open for an additional 60 days before the trustee can file the final report and the case can be closed. If the debtor files the notice of ineligibility for discharge, then the process for closing the case can be expedited and the 60 day waiting period is not necessary as the trustee is able to immediately file the final report for a no discharge case. The filing of a notice of ineligibility for discharge, when applicable, is a time saving measure for the debtor's attorney, the clerk's office, and the trustee and is appreciated by all.

If you have any questions about chapter 13 practice or procedure, please feel free to call the trustee's office at 334-262-8371 and we will assist you in any way possible.



Financial facts

Contributed by :
Janet Clark
Financial Administrator



FEE INCREASES EFFECTIVE NOVEMBER 21, 2012

The Temporary Bankruptcy Judgeships Extension Act of 2012 (Pub.L.No112-121) increased the statutory fee for filing a Chapter 11 case (non-railroad only) and the Judicial Conference approved increases to the miscellaneous fee schedule for fees that are linked to the Chapter 11 fee. A summary of the changes are shown in the table below. Please visit our website for a complete listing of fees.

Description	Current Fee	New Fee
Chapter 9	\$1,046	\$1,213
Chapter 11 (non-railroad)	\$1,046	\$1,213
Chapter 15	\$1,046	\$1,213
Motion to Reopen Chp. 11 (non-railroad)	\$1,000	\$1,167
Sever Joint Chp. 11 (non-railroad)	\$1,046	\$1,213
Convert Chp. 7 to Chp. 11 (non-railroad)	\$755	\$922
Convert Chp. 13 to Chp. 11 (non-railroad)	\$765	\$932

NEW FEE EFFECTIVE MAY 1, 2013

The Judicial Conference approved a \$25 fee for the transfer of a claim in a bankruptcy case. This fee will become effective May 1, 2013.