

COURT *News & Views*

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United States Bankruptcy Court

One Church St. | Montgomery, AL 36104 | (334) 954-3800

CLERK'S CORNER *JC Guerrero*

Welcome to the 5th edition of our newsletter. It is hard to believe six months have already gone by since our last edition. While the overwhelming majority of bankruptcy courts in the country continue to see declining numbers of filings, our numbers continue to remain steady and even increase slightly. Add to that the fact our manpower is down three case administrators and one courtroom deputy from last year (due to budgetary-driven buyouts and early retirements) and it is safe to say our staff has been busy. Notwithstanding all of the above, we remain focused on customer service. Please let me know if you have noticed any kind of decline in the services we provide.

Here are some other happenings in our court:

Opelika Courthouse

Renovation is well underway (finally) in the Opelika Courthouse. In fact, the first floor courtroom renovation has been completed and it looks like fantastic! The new probation office space and the new chambers space are the two main areas that remain to be completed. The General Services Administration (GSA) is shooting for an August 1st completion date for the entire renovation project. In the meantime, we will continue to use the City of Opelika's City Council Hearing Room across the street from the courthouse. We greatly appreciate Opelika's willingness to provide space for us during this renovation.

Attorney Forums

By the time you read this, we will have just completed two of our three attorney forums for the year—one in Dothan on May 29th and one in Montgomery on May 30th. For those of you in the Opelika area, we will hold our third and final attorney forum for this year in Opelika's City Council Hearing Room across the street from the courthouse on Thursday, June 13th at 10:30. Please try to attend. These are great opportunities to have an informal dialogue with the judges and to provide feedback to our office.

(Continued on Page 4)

Our Mission: To uphold the integrity of the bankruptcy process and inspire public confidence by providing professional, courteous and efficient service.



Contributed by
Honorable Dwight H. Williams, Jr.
Chief U.S. Bankruptcy Judge

SEQUESTRATION:

What Does It Mean For The Bankruptcy Court?
And Other Ramblings

For the past several months, stories of Congress' failure to pass a 2013 budget and the resulting mandatory spending cuts (sequestration) have dominated the news. Nearly every news program carries a report concerning the discontinuation or interruption of federal services due to manpower shortages brought on by sequestration. Sequestration has already had an effect upon the operation of the Bankruptcy Court here in the Middle District, and it will present even greater challenges if carried forward into the upcoming fiscal years.

Most do not realize just how little the Bankruptcy Court has in what I call discretionary spending. Almost 95% of the court's total budget is dedicated, that is earmarked, for payroll and technology. That leaves only 5% of the remaining budget that court managers have discretion with respect to how the money is spent. This discretionary portion of the budget is used to pay for essentials like office materials and supplies, travel, etc. So it is obvious that when the court's budget is drastically reduced, court managers are forced to look beyond the rather meager discretionary funds and focus on reducing personnel costs to balance the ledger.

For the current fiscal year, our court has been able to cope with the budget crisis in such a way that most outside observers would notice very little change in the operation. There are a number of reasons for that. First, I give great credit to the leadership of our clerk and his administrative staff. Heading into the current funding crisis, the clerk and staff kept the court operating as lean as possible. For example, the Administrative Office of the United States Courts authorized the clerk to employ over 40 employees. Yet, when the budget problems began, only 26 of those authorized positions were actually filled. Still, in order to meet this year's budget, we had to reduce our manpower by four positions and were able to accomplish that through early retirements and buyouts. That number would have swollen to at least 18 people losing their jobs had the court been fully staffed to the authorized level. The clerk deserves a pat on the back for having the court in excellent shape heading into the crisis.

Secondly, I would be remiss not to credit the clerk's operations staff, case administrators and courtroom deputies, for doing more with less. We have been forced to thin their ranks by almost 20%, all the while adding to their workload. Yet, these employees have put shoulder to the wheel and accomplished the work of the court. We are all in their debt.

Finally, the effects of sequestration have been mitigated this year due to the case filing levels in our district. You may not know that the money allocated each year to a particular court is driven, in part, by the number of cases filed in that district. For the year ending March 31, 2013, our district was one of only four nationally that saw an increase in bankruptcy case filings. Compare that to the rest of the country, where total case filings fell by over 10%. Had our total filings fallen instead of risen, we would have experienced even greater budgetary issues this fiscal year.

Hopefully, sequestration will not continue into fiscal year 2014 and beyond. All the same, we must be prepared for that possibility. If sequestration is continued, you should know that the court is committed to serving the public as best we can. That means that we will do everything possible to offer efficient and uninterrupted services. Nevertheless, we must face the reality that court services may have to be reduced in order to stay within our spending authority if the present crisis remains unresolved.

Changing course, I report to you that my chambers staff is undergoing a transition. Faye Gregg, my secretary for over 24 years, has recently retired. I know that all of you who worked with Faye over the years join me in thanking her for her service to the court and wishing her a happy and healthy retirement.

In addition, my long time law clerk, Anna Williams, has decided to end her career with the court in order to care for her parents. We all wish Anna well in this next phase of her life.

Finally, LaDonna Vinson will join the court on June 3 to become my new secretary. While LaDonna is new to my chambers, she is not new to the federal court. LaDonna has worked for Judges Ira Dement, Delores Boyd, and Terry Moorer. I look forward to LaDonna's service in my chambers.



CM/ECF Lock Out Feature

This is a reminder that filing fees are due at the time of filing. CM/ECF users, however, are allowed to settle all their daily charges at one time at the end of the day to prevent having to enter their payment information multiple times on the same day.



Effective May 1, 2013, the Middle District of Alabama Bankruptcy Court activated the

CM/ECF lock out feature. CM/ECF users with outstanding fees will be locked out of CM/ECF at midnight and will not be able to file anything further until the fees are paid. Please note the main purpose in implementing the lock out is to make sure we are able to collect the new \$25 claims transfer fee. (See claims transfer fee article on page 4).

Users will know they are locked out when they log into CM/ECF. Instead of seeing the usual screen, they will see a listing of outstanding fees and a "Pay Now" button. Settling these fees automatically unlocks the account.

There are occasional instances when a user notices a charge that is incorrect. Please do not settle an incorrect charge. Immediately call 334-954-3800 and someone will assist you.

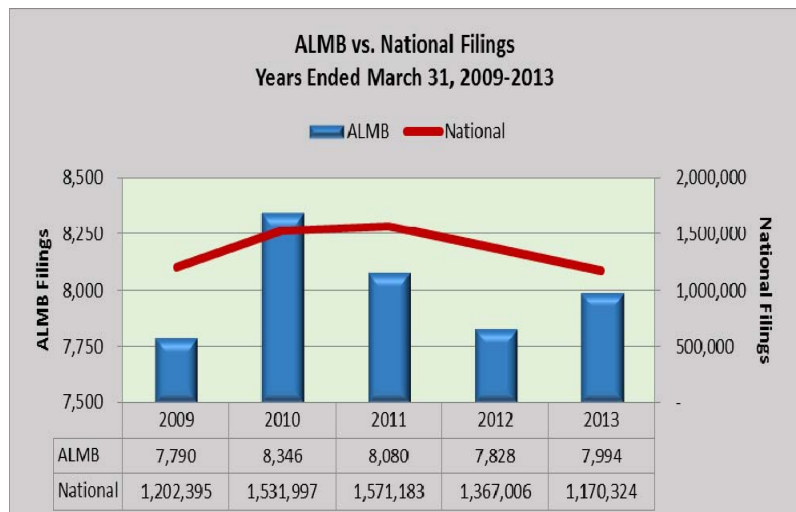
New Pilot Project in Opelika

Our Judges have been considering for some time the implementation of a "Trustee Docket" in advance of the Judge's docket in an effort to try to streamline the confirmation process for chapter 13 cases. The Judges will soon be signing a standing order for our district to implement this new docket process which will begin as a pilot project in the Eastern Division in Opelika. Upon implementation, the "Trustee Docket" will begin at 9:00 a.m. CDT, one hour prior to Judge Sawyer's docket which begins at 10:00 a.m. This pilot project will continue until further notice and will be reviewed after a period of some months by the Judges to decide if the process will be implemented throughout the District.

Currently, at the conclusion of the §341 meeting of creditors in chapter 13 cases, the chapter 13 presiding officer informs the debtor's attorney whether or not the debtor's case is recommended for confirmation. If it is not recommended for confirmation, then approximately 7 to 10 days prior to confirmation, the Trustee will review the debtor's case to determine if the issues addressed at the §341 meeting have been resolved by debtor's counsel. If the issues have not been resolved, the Trustee will file an objection to confirmation pursuant to LBR 3015-2. If the Trustee files an objection to confirmation, then the attorney for the debtor **is required by the terms of the forthcoming order** to appear at 9:00 a.m. in the Opelika courtroom to participate in the "Trustee Docket" prior to the confirmation hearing. If the objection to confirmation is not resolved at the "Trustee Docket" then the Trustee will either take the case to confirmation before the Judge on the Trustee's objection or request from the Judge's Courtroom deputy that the case be continued until the next confirmation docket for further review.

ALMB Filings Remain Steady

Despite a 14% decline in national bankruptcy filing rates for the 12-month period ended March 2013, filings continue to remain steady in the Middle District of Alabama. For the same period, ALMB filings actually increased 2%.





Financial Facts

New Claims Transfer Fee

On May 1, 2013, all bankruptcy courts began charging a new fee of \$25 for each claim transferred. This fee was approved by the Judicial Conference of the United States at its September 2012 session.

In considering this fee, the Judicial Conference Committees with jurisdiction over bankruptcy fees recognized the impact a transfer of a claim has on the workload of the bankruptcy courts, including the impact on court time and resources. Bankruptcy Rule 3001(e) requires the clerk of court to notice a transferred claim and provides additional notice and hearing requirements if an objection to a transfer is made.

The fee will be assessed by bankruptcy courts upon the filing of the claim transfer, whether filed by a transferee or transferor. It will apply to partial claims transfers as well. In the event multiple claims transfers are filed at one time by one entity, the \$25 fee will be charged for each individual claim transferred.

The fee must be paid by credit/debit card or ACH transfer using Pay.Gov upon the filing of the claims transfer in CM/ECF. All entities must ensure that the individual filing a transfer is authorized to pay this fee electronically.

For questions regarding this fee, please contact Janet Clark or Linda Bodden at 334-954-3800.

ALL THE GREAT THINGS ARE SIMPLE,
AND MANY CAN BE EXPRESSED
IN A SINGLE WORD:

FREEDOM
JUSTICE
HONOR
DUTY
MERCY
HOPE

WINSTON CHURCHILL

Clerk's Corner (Continued from Page 1)

Seeking Volunteers

We currently have a couple of great volunteer opportunities for local attorneys:

1-Attorney Advisory Group—we briefly discussed this opportunity in our last newsletter. We are seeking four local bar volunteers to serve as members on this group to replace the four members who are rotating off of the group. Recall our judges created this group in 2010 “in order to continue to improve the bankruptcy process in our district and to continue to inspire public confidence in the overall bankruptcy process.” Specifically, this group provides input to our court regarding matters of bankruptcy administration.

2-Local Rules Advisory Committee—our judges are also looking for local bar volunteers to sit on a committee to review our local rules and make recommendations on necessary changes, etc. While this committee will meet in person, it will also carry out a lot of its work using a “blog” website.

Our judges will make appointments for both of these groups in July. If you are interested in being a part of one or both of these groups and you have not already told me, or if you know of someone who would be an asset to one or both of these groups, please let me know not later than June 27th.

Webpage

We continue to use our webpage (www.almb.uscourts.gov) as a main avenue of communication with all of you. Please continue to check it regularly for announcements. Even though we executed a major upgrade of our webpage two years ago, we plan to upgrade our webpage again later this year. The main purpose of this new upgrade is to make our webpage consistent with a recently created national model webpage for bankruptcy courts. We will send out the new webpage to you ahead of implementation so you will have time to familiarize yourself with the design before we go live.

As always, thank you all for your continued support. Please continue to give us feedback on how we are doing. Until next time...



(L-R) Tony Nolen, Scooter LeMay & Kerwin Washington

As the Federal courts continue to endure budget and manpower cuts, information technology (IT) support has never been more critical. This is especially true in bankruptcy because everything we do is now electronic. So, even though you may not see much of our Middle District of Alabama Bankruptcy IT Team, these three stealthy individuals are really the keys to keeping our court operations running.

Scooter LeMay serves the court as Director of Information Technology. His main responsibility is oversight of all aspects of information technology within the court. He is also a nationally recognized CM/ECF programming expert. A native of Galena Park, TX, Scooter is a retired U. S. Air Force noncommissioned officer and worked in information management. He received an Associate of Applied Science Degree from the Community College of the Air Force and also attended Troy University for computer science studies. He enjoys motorcycles, zip lines, puzzles, memorabilia collecting, and gaming in his spare time. He joined our office in May 2003. He and his wife Tammy make their home in Millbrook.

For the past fifteen years Tony Nolen has been a key player on our IT staff. Tony's area of expertise is managing the court's network. He also performs critical diagnostic work and general repairs. Basically, Tony keeps everything running behind the scenes. Hamilton, OH is Tony's hometown, but at the age of fourteen he moved to Talladega, AL. Tony is a proud graduate of Alabama State University with a degree in computer information systems. He supports the university and attends as many of the sporting events as possible. He really enjoys sports and working on his cars.

Following a 22-year career with the U. S. Air Force, Kerwin Washington joined the bankruptcy staff as an automation support specialist. Kerwin received an Associate of Applied Science Degree from the Community College of the Air Force and a Bachelor's Degree in Computer Science with a minor in web design from Troy University. As a support specialist, his responsibilities focus on the installation and management of desktops and laptops for court staff. Other duties include installing and updating computer hardware and software, as well as providing critical support for the court's telephone system and courtroom technology. His hobbies include serving as the head high school boys basketball coach for Evangel Christian Academy, computer repair, travel, and shopping. Kerwin is married to Julie and they reside in Wetumpka, AL.

We absolutely could not function as a clerk's office without the work of this IT staff. We could not be more proud of them or more thankful for what they do. Thanks guys!

Individual commitment to a group effort - that is what makes a team work, a company work, a society work, a civilization work.

~Vince Lombardi

JACQUELINE MCLAIN CELEBRATES 25TH ANNIVERSARY

Jacqueline Feagin McLain
Courtroom Deputy Clerk to
Judge Dwight H. Williams, Jr.



Jackie McLain is Judge Williams' courtroom deputy (CRD). This year she celebrates 25 years with the U.S. Bankruptcy Court for the Middle District of Alabama. We are very proud of her career!

Jackie was born and grew up in Mobile, Alabama where she graduated from Williamson High School. She is a proud Alabama State University alumna graduating with a Bachelor of Science degree in Business Administration. She also earned her Master of Science degree in Guidance and Counseling from Alabama State.

Jackie began her court career in 1988 as a docket deputy clerk. She then began working her way through various positions. She became a docket deputy clerk leader, a case administrator, and then an operations specialist. Last year, she was moved into her current position as Judge Williams' CRD.

Jackie has always done tremendous work for our court. She is currently working very hard to learn everything there is to know about her new full-time CRD position. In addition to her normal duties, Jackie is also a very active volunteer in our office. She regularly leads our office in organizing luncheons and celebrations.

Bottom line: Jackie McLain is a very important part of our staff. Congratulations on a great career, Jackie!

Contributed by Teresa R. Jacobs
Bankruptcy Administrator - Middle District of Alabama

B.A. BITS

Providing Notice to the B.A.

As a party in interest in every bankruptcy case filed in the district, the bankruptcy administrator (B.A.) receives electronic notice of all filings. There is no need to serve the B.A. with any hard copy pleadings or documents that are filed with the Bankruptcy Court. There are some special requirements for providing documents in chapter 11 cases. The instructions for chapter 11 reports are provided at the intake conference and can also be found on the website under the forms tab. So, save time, money and trees!

Means Test in Chapter 7 Cases (Form B22A)

The B.A. staff review every chapter 7 case filed by an individual to determine the debtor's eligibility. The so-called "means test" has been required since the 2005 amendments to §707(b) of the Bankruptcy Code (BAPCPA) but still gives practitioners problems. A few of the more common issues we encounter are:

- Calculation of current monthly income - this is the average monthly income, from all sources, that the debtor received during the 6 month period prior to filing, without regard to whether such income is taxable. The means test must also reflect income of the debtor's spouse, even if the case is not filed jointly. (Also required on Sch. I; ensure that Sch. I is complete. If spouse has no income, the correct response is "0," not N/A.) All income derived during the 6 months prior to filing should be reflected, even if the debtor no longer has that source of income. Loss of income can be listed on Line 56 as a "special circumstance" if appropriate and will be considered in the B.A.'s review process.
- Household size - line 14. Check to ensure that the household size reflected on the means test is consistent with Schedule I. If it differs, an explanation should be listed on Sch. I.
- Marital adjustment - line 17. The debtor will be asked to provide documentation supporting amounts being claimed as deductions. Provide specific information and breakdown of amounts. Ensure that the amounts listed are not already covered on another part of the form.
- Transportation ownership expense - line 23. Debtors cannot claim an ownership expense for a vehicle that is not encumbered.
- Court ordered payments - line 28. Garnishments are not court-ordered payments that are deductible unless they are for child support or restitution.
- Telecommunication services - line 32. Neither home nor cellular telephone services are deductible. They are considered part of the standard deduction for housing and utilities on line 20A.
- Continued charitable contributions - line 40. The debtor must have a history of charitable giving consistent with the amount listed on the means test and be able to provide supporting documentation.
- Future payments on secured claims - line 42. The B.A. takes the position that the debtor can only claim a deduction if the debt is one to be reaffirmed. The majority of courts who have considered the issue have held that repayment of a 401(k) loan is not repayment of a secured debtor nor an other necessary expense so payments are not deductible under line 26 or 42.

(Continued on page 7)

SIXTH ANNUAL BLACK HISTORY CELEBRATION

The United States Bankruptcy Court for the Middle District of Alabama recently hosted its Sixth Annual Black History Program. United States Bankruptcy Judge, the Honorable William Sawyer, presided over the ceremony. The theme for the program was “Rooted in the past....growing toward the future.” Entertainment included a musical selection by Ms. Tori Jones with the U.S. Attorney’s Office and by the Alabama State University (ASU) theater department. The ASU cast, under the direction of Mr. Anthony Stockard, wowed the audience with skits taken from the production of “The Color Purple.”



The keynote speaker was civil rights attorney Mr. Fred D. Gray. Mr. Gray delivered a fantastic message tying in the importance of our Federal courthouse with civil rights history. The Honorable W. Keith Watkins, Chief United States District Judge, presented Mr. Gray with some mementos as a thank you for his inspirational speech. After the formal program was completed, guests enjoyed a lunch sponsored by the U.S. Bankruptcy Court and the U.S. Attorney’s Office.

(Continued from page 6—BA BITS)

- Information provided on the means test is compared to that on the petition, schedules and statement of financial affairs (SOFA) and should be consistent. The disclosures on the SOFA that are frequently inaccurate or erroneously checked “none” are questions 1 (income for current year and two years preceding the filing and source), 2 (income other from employment), and 18 (nature, location and name of business with six years prior to filing).

Laura Hethcox, Paralegal, and Britt Griggs, Attorney are the primary contacts for Means Test questions. If you are unsure of how to complete the form, or have questions regarding eligibility prior to filing, please contact one of them. And if they contact you for additional information, please respond timely. Many 707(b) issues can be resolved informally prior to the §341 meeting of creditors and prior to the entry of a notice of presumed abuse.

Meet our new Judicial Assistant!

LaDonna Vinson will begin her tenure as Judicial Assistant for United States Bankruptcy Judge Dwight Williams on June 3, 2013.

LaDonna received her Bachelors Degree from Alabama State University and her Masters Degree from Auburn University at Montgomery. She has previously worked in the Judiciary. She was a Judicial Assistant to Magistrate Judges Delores R. Boyd and Terry F. Moorer and Senior United States District Judge Ira DeMent.

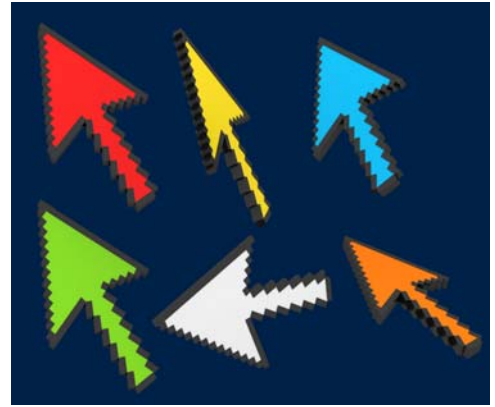
LaDonna is married to Joe Vinson and has a daughter, Joniya, and three grandchildren, Jayla, Marquis, Jr. and Kennedy. In her spare time, LaDonna enjoys spending time with her family, reading, and listening to music.



PRACTICE POINTERS

FROM THE CHAPTER 13 TRUSTEE

Contributed by Sabrina McKinney | Senior Staff Attorney for the Chapter 13 Trustee



We welcome you to view our new and improved website at www.ch13mdal.com. One of the features of our website is to provide attorneys with forms that are unique to chapter 13 and are not “official forms” that are found on the Court’s site. For example, if your client is pursuing a lawsuit or other cause of action and the attorney for the debtor in the lawsuit is in need of forms to have his employment as special counsel approved, the forms that are used by special counsel in chapter 13 cases may be found on our website. We also have the forms for motions to approve settlement and to approve attorneys fees and expenses. Other forms unique to chapter 13 found on our website are the waiver of statute of limitations and business debtor report forms.

LBR 2003-1 provides that in dire circumstances, a debtor’s appearance at a §341 meeting of creditors (MOC) may be excused by the Court with the filing of a motion by the debtor with accompanying documentation to support the debtor’s inability to appear for a MOC. In the event the debtor’s appearance has been excused by the Court, in most instances, the debtor is still required to answer interrogatories in lieu of appearance at the §341. The chapter 13 trustee’s website has the interrogatory form that is preferred by the trustee for the debtor’s use in lieu of appearance at the 341. The interrogatory form on the court’s website is the form used by the Bankruptcy Administrator’s office in chapter 7 cases. In chapter 13 we prefer you use the form which is on our website.

If you have not already done so, please sign up for the 13network. The 13network provides you access to the chapter 13 trustee’s online portal to the debtor’s case as administered by the Trustee. If you do not already have a user name and password for access to the 13network, you may download our website user access agreement at <http://www.13network.com/mondocs/MON-WAA.html> and mail the form to our office for processing. We do not accept email or faxed forms for access agreements. We must have a “wet” signature on file for access to the 13network. One of the most popular features of the 13network is access to “plan calc” which is our system feasibility calculation software. Once you have your user access set up, if you are interested in training on the 13network and plan calc, you may contact the trustee’s office at 334-262-8371 to set up a time for 13network training. The only thing we ask is that you not use the 13network to obtain a “payout” for your client’s case. If you are in need of a payout for your client’s case, please contact the trustee’s office and request an “audited payout” in order to get a payout in writing which can be used for the purposes of paying out the case.

For debtor’s attorneys, if you have not already done so, please sign up to receive your monthly fee disbursement checks from the trustee electronically. The Trustee has been for some time running a pilot program for the EFT payment of debtors’ attorney fees. Thank you to those attorneys who participated in the pilot program. For the rest of you, we are ready for you to sign up and start getting paid monthly via EFT. You may contact our comptroller, Shea Wilson, to obtain the forms for EFT payment of your fees during our monthly disbursement processing.