



# Court News and Views

THE UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA

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## Clerk's Corner Brian J. Suckman

Happy Spring! This past year has been a year of changes. After the new local rules and leadership changes in the Clerk's Office, I am happy to report that everyone has settled into the new normal very well. I want to thank you for your patience as we worked through all of the adjustments.

**Highlights from this edition:** Judge Creswell provides an excellent recap of the new local rules and the course corrections we have made throughout this last year to better implement the rules. These changes have been the result of your valuable feedback. For those that were unable to attend our spring attorney forums, Sabrina McKinney provides critical tips for counsel on ways to be more efficient in handling cases as well as ways to streamline payments to avoid motions to dismiss. Danielle Greco offers some detailed guidance on how to handle the means test form and documents that are required by her office for properly analyzing a debtor's means test. Finally, our dedicated case administrators offer up some useful tips to avoid the common submission errors we are seeing.

**Filing numbers:** we are seeing a steady increase in the number of cases filed. For calendar year 2024, we were up 7.49% compared to 2023, but still below our pre-COVID numbers (2019) by about 26%.

**Training:** as you know, we are happy to provide both your new staff members and even your more experienced ECF users with training. These training sessions can be tailored to your specific office with issues we are seeing in your filings and help you identify ways to avoid them in the future. Please call us at (334) 954-3800 and ask for DeAnna Simmons to schedule this training.

**Feedback:** as always, please continue to reach out to us with any questions or feedback. You can call us directly at (334) 954-3800 or email us at [feedback@almb.uscourts.gov](mailto:feedback@almb.uscourts.gov).

One Church Street  
Montgomery, AL  
(334) 954-3800

## Local Rules: A Year-In-Review

Bess M. Parrish Creswell, Chief U.S. Bankruptcy Judge

As we pass the one-year mark of the effective date of our Local Rules update and have wrapped up our spring attorney forums, I wanted to provide you with an overview of the modifications to procedures and forms the Court has put in place since the rules went into effect. The goal with any court's local rules is to set in place a structure that balances both efficiency and due process. As it is impossible to anticipate every issue that may arise with a change of this magnitude, we have had to adapt and make additional changes to procedures and forms along the way. Below is an overview of the modifications the Court has put in place since April 1, 2024.

- ♦ **Update to Declaration In Support of Entry of Order.** While the revised Local Rules required a separate declaration form (Local Form 5) be filed on the docket prior to submission of the order, the Court replaced the need to file a form with a docket text event effective January 1, 2025. The docket text entry still serves as an attestation that the attorney submitting the order properly served the pleading and received no opposition or response to the pleading.
- ♦ **Update to Suggestion of Death Form.** Local Form 2, Suggestion of Death, was modified to add an option that a Chapter 13 case may be dismissed without a hearing.
- ♦ **Update to Objection to Claim Form and Order for Negative Notice.** While many claim objections can go by negative notice, claim objections that are substantive in nature must be set for hearing. If you want to file an Objection to Claim by negative notice, you must use Local Form 4 and the grounds for your objection must be one of those set forth in the form. If grounds for your objection are not included in Local Form 4, you need to file an objection to claim without the negative notice language and the Court will set a hearing. Also, if the form specifies that supporting documentation must be filed, a failure to file the documentation may result in your objection being overruled or a hearing set at the Court's discretion. Also, keep in mind when filing claim objections, even if not by negative notice, the party filing the objection has the burden to overcome the *prima facie* validity of the claim as filed. Thus, a good practice is to attach affidavits, declarations, or other documents in support of your objection or have a witness on the docket to testify in support of the objection. Further, a common service issue we see is the objecting party serving claimants at the payment address instead of the Notice address, please check to make sure you are serving claimants at the Notice address to avoid unnecessary delays and due process issues.
- ♦ **Update to Motion to Avoid Lien Form.** The Motion to Avoid Lien form (Local Form 10), was modified to require that a copy of the lien must be filed with the motion. This allows the Court to confirm that due process was provided to the judicial lien holder through proper service. Local Form 10 must be used by the debtors when seeking to avoid a lien, and, since the Local Rules update, the Court provided guidance on its website to assist with the completion of this form.
- ♦ **Negative Notice Lists.** The Negative Notice List is updated on the Court's website when needed to reflect the needs of our Court and the changes in the bankruptcy practice. The list was last updated in November 2024 to include Motions to Approve Insurance Proceeds Settlements. Negative notice is never appropriate for emergency matters or objections to claim against the US. Government.
- ♦ **Motions to Transfer Venue.** The Court entered an Administrative Order in June 2024 to address venue transfer request by debtors. This order created a 14-day Negative Notice procedures and local form for Motions to Transfer Venue (Local Form 13). Local Form 13 requires that specific facts and grounds supporting venue transfer be set forth in the motion, and it is only applicable in cases where a debtor is the party seeking a transfer of venue within the district.

## Local Rules: A Year-In-Review (Continued)

- ♦ **Template Orders.** There are template eOrders for routine matters that must be used on the Court's website. We have put these form orders in place for both consistency and efficiency. Recently added is an eOrder Approving Compromise or Settlement. Do keep in mind that while there is a general eOrder template, that is only to be used if the more specific eOrders are not applicable.
- ♦ **Other Changes and Additional Guidance.** In addition to the specific changes above, the Court had to modify the Chapter 13 Plan to address grammatical and typographical errors. There were also a few "drop down" fill in options that needed to be reworked. Further, additional guidance was published on the Court website to assist Special Counsel in seeking approval of settlements and obtaining attorney fees and costs.

As our Court continues to strive to serve the public in the most efficient way possible, we are open to suggestions and thoughts on ways we can improve. There were some great ideas discussed at the spring forums which the Court will be looking into over the next couple of months. So, be sure you are staying up to date with any changes or updates.

### Chapter 13 Trustee "Tips"

#### Sabrina L. McKinney, Chapter 13 and Chapter 12 Trustee

It was so good to see you all at the Spring Attorney Forums!

Our goal for the forums was to share with you our "Top 10" ways to maximize your fees in Chapter 13 cases. Our "Top 10" focus was on tips to maneuver Chapter 13 and pleading tips to help prevent objections by the Trustee's office. In case you were not able to join us for the forums, we've posted our "Top 10" list on the Trustee's website at [www.ch13mdal.com](http://www.ch13mdal.com).

A reminder for those who do not regularly check our website: Our bank recently migrated to a new Epay platform. This new platform will enable you to set up recurring payments like TFS recurring payments as well as some other technological upgrades. If you are an ePay user and have not already done so, you will need to update your credentials with the bank to make full use of the new system.

Another new feature in electronic payments for 13 cases is with TFS. We are now able to accept electronic payments from employers via TFS. This will allow for more efficient processing of debtor payments. Instructions for submitting electronic employer payments is now included on the IWO. If there are questions, feel free to reach out to the Trustee's office.

Plan Calc is now available on NDC.org! For those of you who have not migrated from the 13network to the NDC because of Plan Calc, please check it out!

Finally, I want to remind everyone that we are paying both debtor attorneys and creditors electronically. If you would like to expedite receipt of your disbursement, please sign up for electronic payments today!

As always, if you have any questions or concerns, please contact me.

# Avoiding Means Test Slowdowns in Chapter 7 Cases

## Bankruptcy Administrator

The Chapter 7 Means Test can be intimidating for debtors and even debtor's counsel. Recently, the Bankruptcy Administrator's office has noticed significant delays in providing supporting documentation necessary to complete the Means Test analysis. We want these cases to move through Chapter 7 as smoothly as possible. To help us complete our review and to avoid a continuance and allow your clients to get their discharges as quickly as possible, please make sure to collect the necessary documentation from debtors prior to filing cases and email copies of the documents to the Bankruptcy Administrator's office at least one week prior to the Meeting of Creditors.

Noted below are a few of the line items on the Means Test where we frequently do not receive supporting documentation in a timely manner.

### Marital Adjustments: Line 3

With marital adjustments, the Bankruptcy Administrator's office needs proof that the non-filing spouse incurs the claimed expense, and that the expense is for the benefit of the non-filing spouse and not the debtor, or debtor's dependents. For example, if the debtor is claiming a marital adjustment on line 3 for a non-filing spouse's credit card payment, we need to see credit card statements showing the monthly payment and the purchases made on that credit card.

### Taxes: Line 16

Taxes on line 16 are based on the debtor's tax liability, not their tax withholdings, and include federal, state, and local or municipal income taxes as well as FICA taxes paid by the debtor. To calculate this line item, the Bankruptcy Administrator's office needs a copy of the debtor's most recent federal income tax return, state income tax return, and, if the debtor did not itemize and claim FICA taxes on their state income tax return, a copy of their most recent Form W-2.

### Life Insurance: Line 18

Monthly life insurance premiums on line 18 are only allowable if the premiums are for term policies that insure the life of the debtor. Premiums for other types of life insurance, such as whole life, or policies that insure the life of a non-filing spouse, a child, a parent, a relative, or a business partner, are not allowable on line 18. The simplest way to verify the type of policy, the insured party, and the monthly premium amount, is through the declaration page of the insurance policy, which we will require to confirm this line item is a proper deduction.

### Optional Telephones and Telephone Services: Line 23

Optional telephone services on line 23 is frequently used incorrectly. This line item excludes "basic home telephone, internet and cell phone service" as well as "self-employment expenses." If the debtor requires specialized phone services, such as speech-to-text services for debtors who are deaf or suffer significant hearing loss, and incurs a monthly expense for this service, then such an expense goes on line 23. If that is the case for your client, please collect a copy of a monthly phone bill, highlight that portion of the bill, and send to our office so we can confirm this line item is a proper deduction.

### Additional Home Energy Costs: Line 28

To claim this expense, the debtor must provide supporting documentation for the expense and show that the amount is reasonable and necessary. If claimed, please collect copies of the debtor's energy bills, such as electricity, propane, natural gas, heating oil, etc., and have the debtor execute an affidavit setting forth why the additional expense is necessary.

# Avoiding Means Test Slowdowns in Chapter 7 Cases

## (Continued)

### Educational Expenses for Dependent Children: Line 29

Like line 28, the Means Test form requires documentation of this expense and a statement from the debtor setting forth why this expense is reasonable, necessary, and the amount claimed is not already accounted for in lines 6-23 of the Means Test. If claimed, please collect proof of these payments, and have the debtor execute an affidavit setting forth why the additional expense is necessary and not already accounted for in lines 6-23 of the Means Test.

### Special Circumstances: Line 43

After taxes on line 16, special circumstances on line 43 are the second most common reason for document requests from the Bankruptcy Administrator's office. Pursuant to 11 U.S.C. § 707(b)(2)(B), in order for a debtor to claim an expense or adjustment to their income as a special circumstance, the debtor must: 1) provide documentation substantiating the expense or adjustment, 2) itemize the expense or adjustment, 3) provide an explanation as to why the expense or adjustment is reasonable and necessary, 4) attest to the accuracy of the documentation and itemization, and 5) show that there is no reasonable alternative to incurring the expense or adjustment to their income. When claiming special circumstances, please note that the amounts claimed as special circumstances are monthly amounts, not sum totals, as they are adjustments to the debtor's monthly disposable income on line 39.

### Send Us the Documents!

Our ongoing goal is to decrease the number of continuances and, ultimately, motions to dismiss for Means Test issues. When claiming the above discussed expenses, please be sure to collect the necessary documentation from your clients, prior to filing bankruptcy, and provide those documents to the Bankruptcy Administrator's office at least one week prior to the Meeting of Creditors to allow our office time to review the documentation and, hopefully, resolve any Means Test issues.

## Helpful Tips from the Clerk's Office

### From the Courtroom Deputies

- ♦ On Rule 9007-1(f) motions, please be sure to enter the Declaration in Support of Entry of Order and upload the proposed order by the due date or an in-person hearing will be set. Also, remember that the Declaration is a text only docketing event. No PDF attachment is required for the event. You must enter the Declaration prior to submitting the order or the order will be returned to you unsigned until you enter the Declaration.
- ♦ When attending a court proceeding virtually, attendees should plan on connecting to the court's videoconferencing website, Webex, a minimum of fifteen minutes prior to the commencement of the proceeding. This allows for the attendees and the courtroom deputy to resolve any last-minute issues involving the cameras and mics of all those in attendance.

### From the Case Administrators

- ♦ If you are filing a "Notice of Withdrawal of Document," please make sure the correct case number and debtor's name is on the top of the document. Additionally, the body of the document should state the document you are withdrawing. Finally, the document should include a signature block and a Certificate of Service.
- ♦ Reminder – A pleading may only be withdrawn by the party who originally filed it.

## From the Case Administrators (continued)

- ♦ With the implementation of the new local rules, attorneys are now responsible for submitting an increased number of orders on a regular basis. It is crucial these orders contain the correct information to prevent rejection of the order or the setting of a status hearing. Common mistakes include referencing the wrong motion, misspellings, and improper noticing. Submitting accurately prepared orders will ensure timely issuance.
- ♦ When special counsel attorneys file their Declaration in Support of Entry of Order event for 9007-1(f) motions, please do not select that you are the debtor's bankruptcy attorney. Please follow these docketing events to avoid adding yourself as the main bankruptcy attorney: Bankruptcy > Filings > Miscellaneous/Other > Declaration in Support of Entry of Order (Local Form 5) > Select Special Counsel name > Select Special Counsel name here too.
- ♦ When filing a Local Rule 9007-1 motion, the negative notice language must be in the heading of the document. If an amended motion is filed and NO hearing has been set, please add the word "Amended" to the document and keep the negative language in the document.
- ♦ The name of the debtor or joint debtor listed in the heading of a document must match the name or aka of the debtor or joint debtor listed on the case.
- ♦ Amended Schedules D, E/F, or G require a filing fee of \$34.
- ♦ Read the submission error you receive thoroughly, there maybe more than one error in the document.
- ♦ Several forms were updated and went into effect for cases filed on our after April 1, 2025. Please make sure you are using the most recent version of these forms.
- ♦ If you are adding creditors while modifying a schedule and use third-party software, it has been brought to our attention that the software program has a character limit and is cutting off creditor information. Please use ECF to file the amended schedule with the creditors as there is no limit to characters you can input directly into ECF.
- ♦ When paying a filing fee in a converted case, the **original** chapter must be selected for all payments. For example, if a case converted from a Chapter 7 to Chapter 13, Chapter 7 should be selected for all payments made after the conversion.
- ♦ During telephone dockets, please remember to mute your phone when you are not speaking and do not use speakerphone. The Court is monitoring these dockets and if you fail to mute your phone or otherwise cause a disruption, you will be muted. If the Court mutes you, you will have to press \*6 to unmute yourself.

## Save the Date!

ALMB will host 2025 fall attorney forums. The date and times will be announced later this summer. Please be sure to review all Court correspondence for the announcement. As always, you and members of your staff can attend one of these meetings. One hour of CLE will be awarded for attendance.