



# Court News and Views

THE UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA

Volume 15 | April 2019

A Biannual Publication

## Clerk's Corner JC Guerrero

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

Welcome to another edition of our newsletter. Thank you for taking the time to read this publication. Please continue to give us feedback on how we can make it better.

**Chambers:** this will be another busy year with many changes coming to our chambers. Julia Caro, Judge Sawyer's judicial assistant, is retiring in June. Judge Sawyer has hired Kimberly Waldrop, Judge Creswell's term law clerk, to be to be his career law clerk. Judge Creswell has hired a term law clerk, Nicholas Lamparski, to replace Kimberly, and he will be starting in August.

In addition to the personnel changes, we have changes in how the judges will split the cases effective July 1, 2019. Please see Jessica Brown's article on page 3.

**Some Dollar Amounts Have Changed in the Bankruptcy Rules and on Some Forms:**

These dollar amounts went into effect on April 1st. See Tonya Hagmaier's article on page 2 for the details, and be sure you are using current forms in your practice.

**Case Administrator and Courtroom Deputy Tips:** we provide tips from the CAs and CRDs in every newsletter, but we still see some of the same errors they are trying to help prevent. Please take a minute to read the tips, and take another minute to apply them to your practice. Fewer errors means fewer submission errors which means not having to do the same thing twice in your practice, saving you time and money!

**Training:** I announced this in the last newsletter and at the last attorney forums, but it bears repeating: we would be happy to train your new staff members or refresh your current staffs' training on CM/ECF. Please see Brian Suckman's article on page 5 for details.

**Webpage and Email Updates:** please continue to monitor our webpage (<https://www.almb.uscourts.gov>) for regular updates on operational issues, schedule changes, etc. Also, while you are on our webpage, please sign up to receive our email updates. You can sign up by typing in your email address in the bottom righthand corner of our homepage (under the Email Updates section). We don't send email blasts often, when we do send them, we try to limit them to time-critical issues you need to know about promptly. If you aren't signed up, you won't get the email blasts.

Thank you again for taking the time to read our newsletter. Until next time...

# From the Clerk's Office

## **Some Dollar Amounts Have Been Adjusted in the Bankruptcy Code and in Some Official Forms and Director's Forms**

Tonya Hagmaier, Chief Deputy

On April 1, 2019, automatic adjustments to the dollar amounts stated in various provisions of the Bankruptcy Code and one provision in Title 28 of the United States Code went into effect. The adjusted dollar amounts apply to cases filed on or after April 1, 2019. The relevant provisions governing the timing and calculation of the dollar amount adjustments are codified in 11 U.S.C. § 104(a). Among other matters, the adjusted dollar amounts affect the following:

- the eligibility of a debtor to file under chapters 12 and 13 of the Bankruptcy Code;
- the definition of a small business debtor;
- certain maximum values of property that a debtor may claim as exempt;
- the maximum amount of certain claims entitled to priority;
- the calculation of the “means test” for chapter 7 debtors;
- the duration of a chapter 13 plan;
- the minimum aggregate value of claims needed to commence an involuntary bankruptcy case;
- the minimum value for trustee avoidance actions; and
- the value of “luxury goods and services” deemed to be nondischargeable where the trustee may commence certain proceedings to recover a money judgment or property.

A chart showing the affected sections of the Bankruptcy Code and Title 28, with the current and adjusted dollar amount in those sections, can be found at <https://www.almb.uscourts.gov/sites/almb/files/2019CertainDollarAmountsAdjusted.pdf>. The adjustments reflect the change in the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor for the three-year period ending December 31, 2018, and are rounded to the nearest \$25.00.

Seven Official Forms and two Director's Forms contain references to several of the affected dollar amounts:

- Official Form 106C, Schedule C: The Property You Claim as Exempt;
- Official Form 107, Statement of Financial Affairs for Individuals Filing for Bankruptcy;
- Official Form 122A-2, Chapter 7 Means Test Calculation;
- Official Form 122C-2, Chapter 13 Calculation of Your Disposable Income;
- Official Form 201, Voluntary Petition for Non-Individuals Filing for Bankruptcy;
- Official Form 207, Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy;
- Official Form 410, Proof of Claim;
- Director's Form 2000, Required Lists, Schedules, Statements, and Fees; and
- Director's Form 2830, Chapter 13 Debtor's Certification Regarding Domestic Support Obligations and Section 522(q).


The revised forms can be found at <https://www.uscourts.gov/forms/bankruptcy-forms>.

## Chambers News

Jessica Brown, Judge Creswell's Career Law Clerk

**Change is in the Air:** Beginning July 1, 2019, the distribution of chapter 13 and chapter 7 cases between Judge Sawyer and Judge Creswell will change. As you know, the current set-up has Judge Sawyer covering the Dothan and Opelika 13s and the Montgomery 7s while Judge Creswell handles the Montgomery 13s, Dothan 7s, and Opelika 7s. On July 1, 2019, Judge Creswell will take over all Opelika chapter 7 and chapter 13 cases. She will also take Montgomery 7s and Dothan 13s. Judge Sawyer will then cover Dothan 7s and Montgomery 13s. Essentially, this is a clean case swap between the judges, except Judge Creswell will be covering all of Opelika. To ease the transition, both Judge Creswell and Judge Sawyer will, as closely as possible, adopt the other's previously set calendar dates for the remainder of the year. For example, Judge Creswell will hold court in Opelika and Dothan on the same Wednesdays previously scheduled by Judge Sawyer. Pending adversary proceedings will remain with the judge assigned as of July 1, 2019. Chapter 11 cases will still be assigned on a random basis.

**Reminder Regarding Communication with Judge Creswell's Chambers:** All communication regarding a matter set for hearing (i.e., settlements or agreed continuances) should be sent to [settlements4C@almb.uscourts.gov](mailto:settlements4C@almb.uscourts.gov) by 12:00 p.m. the business day prior to the hearing. All interested parties should be copied. Please reference the case number, debtor name, hearing date, and number on the posted docket. Any settlement or resolution not received by 12:00 p.m. the business day prior to the hearing will not be noted on the docket, and the parties will need to make the announcement at the scheduled hearing.



## Trustee's Tips

Sabrina L. McKinney, Chapter 13 Trustee

We want to keep you updated on some changes in procedure and the availability of certain services at the Trustee's office. Just as a reminder, on January 1, 2019, we began taking debtor tax returns via the [www.13documents.com](http://www.13documents.com) portal. The 13documents portal is a more efficient means of administering debtor tax returns, and we will be phasing out our [taxreturns@ch13mdal.org](mailto:taxreturns@ch13mdal.org) email account. Remember to redact all of the debtor's PII from your 13documents portal submissions.

We have started a new procedure to expedite Judge Creswell's dismissal dockets for cases that are reaching the five-year anniversary. When a motion to dismiss is set for hearing, the Trustee's office will email the debtor's counsel a proposed consent order that will provide for the dismissal of the debtor's case on the five-year anniversary unless it is paid in full.

We have started a project in our Montgomery 341s: we have a tablet available to debtors' counsel to help them get their debtors signed up with the National Data Center ([www.ndc.org](http://www.ndc.org)). Once this pilot project has been fully tested in Montgomery, we will move forward in Opelika and Dothan. In line with the furtherance of the NDC project, we wanted to make sure that debtors' counsel were aware they also may sign up for the NDC. When debtors' counsel register with the NDC, they will get access to all cases in which they are a party in interest. If you have not already done so, I encourage you to sign up for the NDC today.

As you are all aware, the Court updated the local rules to remove motions to approve settlement and applications to approve attorney fees and expense from the Rule 9007-1(a) negative notice list. If you need the updated forms for these two motions/applications, please go to the forms tab at [www.ch13mdal.org](http://www.ch13mdal.org) and download the latest forms.

Please keep an eye on the Trustee's website for upcoming announcements of new things to come.

## Tips from the Case Administrators

**1. Conversions, New Documents, and Amended Documents:** Rule 1019(5)(B)(i) states that “not later than 14 days after conversion of the case [the debtor] shall file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim...” If no previously-filed schedules are being amended, do not file them with the conversion. Only amended schedules and schedules or statements required in the new chapter are to be filed. When you file the schedules and statements required because of the conversion, do not mark them as amended. If you did not file them with the original case, they are not amended.

**2. Local Rule 9007-1 Update:** Do not use the negative notice language from local rule 9007-1 when you file an application to approve professional fees or you file a motion to approve compromise or settlement. 11 U.S.C. 330 requires notice and hearing before applications for professional fees may be approved, and Rule 9019(a) requires notice and hearing before the court may grant a motion to approve compromise or settlement.

The correct docket event for the two filings are located under the Motions/Applications menu.

- > Approve Compromise or Settlement, and
- > Approve Attorney Fees and Expenses of Professional Persons  
Pursuant to 11 USC 330.

**3. Debtors' Names:** If your debtor, Julia S. Johnson, has used different name combinations (for example: Julia Pamela Smith, Julia P. Smith, Julia Smith Johnson, Julie Smith, Julie Johnson, etc.), when you open the case you should list all of those names on the petition and in CM/ECF. After that, do not put them all in each pleading. For pleadings and other submissions, just use the name under which you filed the case.

**4. Debtor's Name and Income Records:** When you submit an income record, double-check the name on the income record. If it is not one of the names you listed in the petition, go back and list it before you submit the income record. For example, using tip #3, above, if the name on the income record is Jules Smith, you need to go and add that to the list of names used.

**5. Put Correct Data into CM/ECF:** When you docket a Continued Meeting of Creditors and/or Confirmation Hearing (Attorney), double check the date, time, and location of the hearing before you complete the docketing process. Don't forget to include a certificate of service with your notice to show you notified all creditors and interested parties as required.

**6. Creditors' Names and Motions to Avoid Judicial Lien:** Remember to list the name of the creditor in the docket text when you file a motion to avoid judicial lien.

**7. Trustee's Motion to Dismiss:** When you file a response to a trustee's motion to dismiss, please add "Trustee's Motion to Dismiss" to the docket text.

## Tips from the Courtroom Deputies

1. **eOrders:** Before you submit an eOrder, be sure you go to our website, <https://www.almb.uscourts.gov>, and download and review a copy of our eOrders Guide. This will give you step-by-step instructions on how to submit your proposed orders.
2. **Expedited Hearings:** If you file a motion for an expedited hearing, let the courtroom deputy know. Judge Sawyer's courtroom deputy is Bill Livingston. His number is 334-954-3846. Judge Creswell's courtroom deputy is Carrie Moore. Her number is 334-954-3842. If they know the motion is out there, they can try to expedite it for you.

## IT TIPS

Brian Suckman, IT Manager

### NextGen CM/ECF is coming to ALMB

ALMB will begin its transition to NextGen CM/ECF in April 2020 with an anticipated rollout in late spring to early fall 2020. As a user, you will not notice any major differences in how you load case documents into the system. However, every CM/ECF user must have an individual PACER account to access the system. PACER will act as the single sign-on portal for all CM/ECF activities.

Alabama Northern Bankruptcy (ALNB) went live on NextGen CM/ECF in September 2018. If you practice in that court, you should already have upgraded your PACER account. If you created a PACER account prior to August 11, 2014, you will need to upgrade your account. If you do not have a PACER account, you will need to create one. For firms with multiple users, it is possible to create a PACER Administrative Account (PAA) to consolidate all billing information under one account.

Information on upgraded PACER accounts can be found at <https://www.pacer.gov/announcements/general/improvements.html>. Information on PAAs can be found at <https://www.pacer.gov/psc/faq.html> and selecting PAA from the PACER tab.

### CM/ECF Training Available

We are available to provide training to new CM/ECF users in your firms and to provide refresher training for your more experienced users. The training is an opportunity to have one-on-one time with the IT manager and operations supervisor to discuss how best to use CM/ECF and what events should be used in filing certain documents. When we train your office, we will also provide your firm's common submission errors and give you advice on how to avoid them in the future.



### Debtor Electronic Bankruptcy Noticing

Henrietta Foster, HR Manager

Tired of hearing debtors say, "I didn't receive my notice?" It may be time to discuss Debtor Electronic Bankruptcy Noticing (DeBN) with your clients. DeBN allows debtors to receive orders and court-generated notices via email instead of U.S. mail. The process is simple: debtors simply complete and file the DeBN form with the court where their case is filed.

We recommend you discuss DeBN with your clients at their first consultation and get them signed up immediately. For more information on the advantages of DeBN and how the program works please visit our website at [www.almb.uscourts.gov](http://www.almb.uscourts.gov), and in the top left of the page click DeBN.

A copy of the DeBN application may be found <https://www.almb.uscourts.gov/sites/almb/files/>



## BEST WISHES ON YOUR RETIREMENT

Henrietta Foster, HR Manager



After 31 years with the judiciary, Jacqueline McLain retired on March 31st. Her most recent position with the court was courtroom deputy for Judge Creswell. We wish her all the best in her retirement and in all of her future endeavors.

## CONGRATULATIONS, CARRIE

Carrie Moore has been selected to be Judge Creswell's new courtroom deputy. Carrie has been with the court for 15 years and offers a vast amount of knowledge and experience. We are pleased to welcome her to the position.



## TWELFTH ANNUAL BLACK HISTORY CELEBRATION

Henrietta Foster, HR Manager



The bankruptcy court hosted its Twelfth Annual Black History Program on Thursday, February 12, 2019. The Honorable Myron H. Thompson, Senior Judge, Middle District of Alabama, presided over the ceremony. The theme for the program was "The Strength in Our Past Gives Us Faith in Our Future." The keynote speaker was United States Marshal Jesse Seroyer, Jr. Marshal Seroyer reminded us that individually we are one drop, together we are an ocean.

Entertainment included a musical selection by Mrs. Novellette Seroyer and Dr. Cordelia Anderson, Assistant Professor of Vocal Studies at Alabama State University.

Following the program, guests enjoyed a reception sponsored by the bankruptcy clerk's office.