



Court News and Views

THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

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Clerk's Corner

JC Guerrero

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

Welcome to the 12th edition of our Court News and Views. Wow! Time flies when you're having fun. At our November attorney forums, we continued to receive positive feedback on this publication, and our plan is to continue publishing them so long as they are useful to you. I have just a few items to cover:

National Chapter 13 Plan: As most of you have heard by now, a national chapter 13 plan, Official Form 113, will be required for use on December 1, 2017. A new bankruptcy rule (Rule 3015.1), however, allows individual districts to opt out of the national plan and use a local plan instead, assuming several conditions are met. We in the Middle District of Alabama are currently deciding how to proceed, and our attorney advisory group will be involved early in the decision-making process. If the decision is to opt out of the national plan for a local plan, the revised local plan will be sent out for public comment with sufficient time to receive and act on comments before December 1st. More to follow...

Attorney Forums: We held three attorney forums last November in Montgomery, Opelika, and Dothan. We had good turnouts at all three. In addition to providing one hour of free CLE, we gave a quick rundown of how things were going in chambers and the clerk's office. Some of the items we discussed were updates on personnel, national and local bankruptcy statistics, courtroom renovations, and the next generation of CM/ECF. We also gave a quick summary of new rules and forms that were to become (and ultimately became) effective last December 1st and a quick summary of our new financial policy on refunds. Attorneys in the audience also raised several good discussion items: video teleconference (VTC) dockets, the national chapter 13 plan, feedback on the new bankruptcy forms, feedback on our website, returned mail, CM/ECF consistency, and much more. These attorney forums are held for all of you. Please keep attending them! Our next forums will be in November of 2017.

Attorney Advisory Group: Our next attorney advisory group meeting will be in late May of this year (exact date to be determined). If you have feedback or issues you would like for us to discuss at the meeting, please contact one of the attorney advisory group members (America Cross, Kristen Abbott, Bo Brown, Chuck Grainger, Paul Esco, and Cam Metcalf) and let them know.

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

Attorney Contributions

Trustee's Tips

Sabrina McKinney, Acting Chapter 13 Trustee

1. Our online information system service at www.13network.com provides creditors with most of the debtors' case information they need. Rather than call our office for this information, please go to our website www.ch13mdal.com and download our user agreement so you can sign up for access to the case data on the 13network. If you still have questions after reviewing the information on the 13network, feel free to call us. If debtors want online access to their case information, they need to register with the National Data Center at www.ndc.org.
2. If a debtor's counsel files a claim for creditors, he or she does not need to worry about the accompanying documentation that is required when a creditor files a claim. You should not receive a request to provide us with claims documentation if the person filing the claim is counsel for the debtor.
3. When filing a motion to extend stay, it is very helpful to the court and the trustee if you put in your motion why the prior case was dismissed, what is different between the time the previous case was dismissed and the current case was filed, and why you think this new case will succeed.
4. When filing a motion to modify plan or a motion to incur debt, it will help avoid objections by the trustee's office if you file an amended schedule I and J with your motion.
5. Please do not send consent orders to the trustee's CM/ECF email account. Please email all proposed consent orders to either hayest@ch13mdal.com or mckinneys@ch13mdal.com for processing.
6. Unless a debtor requests direct payment, when a case is confirmed an income withholding order will automatically issue to the debtor's employer if we have the full name and complete address for the debtor's employer. If you wish for an income withholding order to be issued prior to confirmation, please email your request to 13trustee@ch13mdal.com. Any requests to pay direct should also be addressed to that email address for processing.
7. Please do not send tax returns, tax affidavits, DSO agreements, or DSO information to Mr. Carn in Dothan. All correspondence that needs to be processed through the debtor's case needs to be sent directly to the trustee's office for processing. For the protection of your client's confidential tax information, all tax returns and tax affidavits should be emailed to taxreturns@ch13mdal.com. Other information requested, such as DSO agreements or DSO recipient information, should be sent to 13trustee@ch13mdal.com for processing.
8. One common issue with debtors' plans is the failure to list the DSO obligation. If the debtor has a DSO obligation, please be sure to list it and provide for any arrearages on the debtor's plan. It is also important to list the DSO recipient on the plan for the continuing payment to be made directly.
9. Please remember that we need what is commonly referred to as the "page 4 attachment" to B22 in the

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debtor's schedules. This is the page that details for the trustee how you arrived at the debtor's 6-month CMI figure on B22. Also, if the debtor is self-employed and is claiming business expenses as a deduction on either B22 or J, we need an itemized list of those business expenses. If this information is included with the petition rather than us having to ask for it at the §341 meeting, it will speed up our review process and allow us to recommend the case for confirmation earlier. Otherwise, we have to reserve our recommendation until it is received at some later date.

Service of Objections to Claims Involving Federal Agencies

Dee Dee M. Calhoun, Assistant United States Attorney

If you practice bankruptcy for any length of time, you will undoubtedly come across a client with an issue involving the federal government. Perhaps your client will owe taxes to the Internal Revenue Service, a student loan debt to the U.S. Department of Education, or a mortgage debt to the U.S. Department of Agriculture. Regardless of the federal agency, knowing how to properly serve objections to federal proofs of claim will act to your benefit and will result in a more efficient bankruptcy practice.

While I am not advocating for the filing of more objections to federal claims - many of the issues can be resolved with a simple phone call or email to my office - I understand there are circumstances which may warrant such action. To that end, I offer the following:

Objections to claims are contested matters which are governed by Bankruptcy Rules 3007, 7004, and 9014. As various courts have observed, these rules act in tandem to govern serving objections to federal government proofs of claim. Rule 3007 is a general rule which sets out the requirements that the objection be in writing and that notice be provided to the claimant, either by mail or otherwise, at least 30 days prior to the hearing. Rule 9014, on the other hand, provides more specified guidance on contested matters by directing service to be made in accordance with Rule 7004. Rule 7004 provides the nuts and bolts for service of contested matters and identifies which entities are to be served.

The bottom line is service of an objection to claim regarding a federal agency must be mailed or otherwise delivered to each of the following:

- 1) the United States Attorney,
- 2) the United States Attorney General, and
- 3) the appropriate federal agency.

Following this practice is particularly important in light of Local Rule 3007-1 which permits objections to claims to be resolved by way of negative notice. Proper service of objections to claims by the federal government will allow the creditor to address the merits of the objection the first time around and will reduce the need for the government to file motions for reconsideration due to improper service.

Mediation in Bankruptcy

Teresa Jacobs, Bankruptcy Administrator

Parties who wish to have a contested matter mediated may do so upon referral by the presiding judge. Britt Griggs in the Bankruptcy Administrator's office has participated in mediation training and has successfully mediated contested matters. If you are interested in mediation, you can contact her at (334) 954-3908 to discuss further details.

From the Clerk's Office

Financial Corner

Janet Clark, Financial Administrator

Fee Changes Effective December 1, 2016

At its September 2016 session, the Judicial Conference approved inflationary adjustments to the bankruptcy court miscellaneous fee schedules as follows:

Description	Fee as of Dec 1, 2016	Previous Fee Amount
Exemplification of any document	\$22	\$21
Reproduction of an audio recording of a court proceeding	\$31	\$30
Amendment to debtor's schedule of creditors, list of creditors, or mailing list	\$31	\$30
Conducting a search of bankruptcy court records	\$31	\$30
Filing any document that is not related to a pending case or proceeding	\$47	\$46
Filing the following motions: To terminate, annul, modify, or condition the automatic stay To compel the abandonment of property of the estate pursuant to Rule 6007(b) To withdraw the reference of a case or proceeding under 28 U.S.C. §157(d) To sell property of the estate free and clear of liens under 11 U.S.C. §363(f)	\$181	\$176

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Financial Practice Tip

Submission errors and fees: If you receive a submission error requiring you to refile a pleading that has a fee, and you already paid the fee, you do not have to pay the fee again as long as you refile within the time stated in the submission error. To avoid payment of the fee a second time, use the following procedures:

1. If an amended event is available, such as amended motion for relief from stay, use the amended event. Fee records are not created when an amended event is used.
2. If an amended event is not available, call the clerk's office at 334-954-3800 and ask for the assigned case administrator, Linda Bodden, or me before you refile or you click on the Pay Now button. We can remove the fee in this particular circumstance to prevent an overpayment.

Court IT Updates

Brian Suckman, Director of IT

VTC Upgrades: We recently upgraded the VTCs in the Dothan and Opelika courthouses. Both systems work similarly. To use them, just turn on the TV using the remote, and touch the VTC's white touch screen to turn it on. In Opelika, you will also need to turn on the Crestron unit by touching the black touch screen located on the court room deputy's table. If the camera needs to be adjusted, click the camera icon on the upper right of the touch screen to bring up the camera controls. The camera default is set for court viewing, but you can adjust the camera's position or the magnification as necessary.

Electronic Evidence Submission: We are studying a system for evidence in trials and hearings be submitted electronically. Once complete, the process will replace the need to bring hard copies of documents to court and provide hard copies to opposing parties. We will update you as we get closer to adopting the system, and we will provide training on the system and the procedures.

Tips from Your Courtroom Deputies

1. Make sure you have a certificate of service with all motions, pleadings, and objections to claims. The certificate of service must contain the complete names and address of all parties served.
2. When filing a motion to lift stay for the debtor and co-debtor, the co-debtor's name and address must be on the certificate of service.
3. With motions to lift stay and co-debtor stay, we frequently see the motions correctly showing the debtor and co-debtor's names, but the co-debtor's name is left off of the order. E-orders for motions to lift stay and co-debtor stay must reference both the debtor and co-debtor.

Quick Tips from Your Case Administrators

1. Only attorneys may file bankruptcy cases electronically. Pro se debtors must file in hard copy.
2. Be sure you include both the name of the debtor and the joint debtor in the heading of each document you file.
3. Be sure your documents are clear and easy to read. We often receive .pdf documents that are so badly printed we can't read them.
4. Remember we are an electronic-filing court. File change of address forms electronically.
5. If you are unsure how to docket a pleading, call the clerk's office. We are happy to help you; and your docket looks much cleaner if you do it correctly the first time.
6. Make sure you use updated forms. You can find all current forms on our website.
7. When attaching a .pdf document to a debtor/joint debtor petition, make sure both the debtor's and the joint debtor's names are included in the heading of the document.
8. Checks and money orders should not be made out to the clerk, JC Guerrero. Instead, make them out to the US Bankruptcy Court.
9. Please wait for the trustee's office to file their Notice of Completion before you file your motion for discharge.
10. Never combine B121, the Statement about Your Social Security Number, with petitions, schedules, or other documents. To ensure the debtor's privacy, always docket it separately.
11. Attachments and exhibits (except trial exhibits) should be docketed when you file the main pleading. Scan them with the main pleading into a single .pdf document, or scan them separately and link them as related documents.

Adding a New Party to a Case

Yvonne Pelham, Case Administrator Supervisor

The party pick list in CM/ECF displays all parties in the case. Since the party database is populated by all users, there is a good chance that the party being searched for will already be in the system. If a party is not listed, he, she, or it must be added to the pick list. The screen titled Select the Party will show a box with the parties already associated with the case.

If the party is in the database, verify that the name and address are an exact match. If they are a match, click to select the name. If they are not a match, select the proper name from the list and modify the address by removing the old address and entering the address from your .pdf document. Close the box., then select the role for the party and click Submit. The party pick list will display again. Click Next to continue docketing.

If the party is not located in database, click Create New Party and complete the name and address fields. Select the role for the party, then click Submit. The party pick list will display again. Click Next to continue docketing.

Welcome to the Team! Elliott Smith joined the court as Judge Sawyer's law clerk in August. He was born in Dothan, Alabama, but raised elsewhere while his stepfather was on active duty with the Army. He graduated from Troy University with a B.S.B.A. in Accounting and an M.B.A. with a concentration in Accounting. In 2016, he graduated first in his class from Faulkner Law and was admitted to the Alabama State Bar and the Order of the Barristers that September. During law school, he competed in trial advocacy competitions, winning multiple championships and awards. While in school, he clerked for civil law firms and interned for Justice Greg Shaw of the Alabama Supreme Court and Judge Kristi K. DuBose, U.S. District Court, Southern District of Alabama. In his spare time, he enjoys big game hunting, boarding double black diamond slopes, and rock jumping into the Coosa. Welcome to our team, Elliott!



Tenth Annual Black History Celebration

Henrietta Foster, Human Resources Manager

February 23, 2017, marked our tenth annual Black History Month celebration. The theme this year was Black History, Rooted in Faith, Anchored in Hope. The Honorable Judge William R. Sawyer, Chief Judge, U.S. Bankruptcy Court, presided over the event.

The keynote speaker was Mr. Mark Potok, senior fellow and journalist with the Southern Poverty Law Center and editor in chief of the Southern Poverty Law Center's award-winning magazine, *Intelligence Report*. Among other things, Mr. Potok addressed globalization issues.



Mr. Potok speaks at the tenth annual Black History Celebration

Congratulations, Kerwin!

Sam Willoughby, Administrative Intern

This year, the Evangel Christian Academy Lions' boys basketball team, coached by our very own IT Specialist Kerwin Washington, finished their season with a state championship trophy!

Though the year started off shakily for the Lions, the pulled together and ended the regular season with a record of 20-9 before advancing to the playoffs. Their 53-47 win over East Memorial in February gave them their **sixth** state championship!

Congratulations to Kerwin and the ECA Lions!



Coach Kerwin Washington and team celebrate their sixth state championship