



# Court News and Views

THE UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA

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## Clerk's Corner JC Guerrero

Welcome to the latest edition of our newsletter! First and foremost, I hope this finds all of you healthy. These are unprecedented times, and we understand that. Please know we are trying to do everything we can to adjust our procedures to make things as safe as possible for everyone and yet still be efficient and effective. And we still really care about customer service; so please let us know if you have any questions or concerns with what we are doing—whether it be a chambers issue or a clerk's office issue. Email us at [feedback@almb.uscourts.gov](mailto:feedback@almb.uscourts.gov) with any issues you are having. We will get back to you as soon as possible. Also, if we find there is an issue many of you are having, we will post our response on our webpage. So please check our website daily for announcements. If the issue is something critical and time sensitive, we may also send out an email blast. Please make sure you are receiving our emails by signing up for them on our webpage. Lastly, if our website announcements and email blasts aren't enough, we will be glad to set up virtual attorney forums at each of our divisions to address questions or concerns. Bottom line: we want you all to be informed and to have everything you need to function successfully in our court.

This newsletter contains some articles specific to COVID-19, including articles written by Judge Creswell and by Danielle Greco, the bankruptcy administrator. Please take the time to read these.

So far, the great people in our court have done a fantastic job adjusting to the pandemic. Thankfully, we have a flexible staff who stand ready to accomplish the mission, and we regularly practice teleworking to make sure we are ready for emergency situations. I am super proud of our folks and how they have responded to this COVID-19 crisis.

Speaking of great people, since our last newsletter we have had a few personnel changes in our office (see the articles on page 8 for more details). Two of our long-time case administrators, Desma Russell and Elizabeth Walker, retired. We wish them both all the best as they move on to a new chapter in their lives! To help make up for their losses, we hired a new case administrator (Jill Weiss) and we promoted our administrative assistant (Caitlin Ray) to a case administrator. Both Jill and Caitlin have hit the ground running and are already doing outstanding work.

As always, thank you for taking the time to read our newsletter. Please don't hesitate to let me know how we can make these newsletters more useful to you. Until next time, stay safe and healthy!

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# CARES Act

## Bess Creswell, U.S. Bankruptcy Judge

In these unprecedented times, we are all trying to figure out how to move forward with “business as usual” while juggling teleworking, distant learning for our children, and health safety protocols that separate us from family, friends, and colleagues. We as a court are modifying procedures to allow us to continue to serve the public during the pandemic, and we do understand that you all may be struggling with reinventing the way you conduct business. I have a sticky note on my desk that says “good times encourage us, but hard times mature us” to remind myself to focus on the positive. When we get to the other side of this pandemic, and we will, I hope that we can all look back and find some way we grew through this process.

In the spirit of growing, I encourage each of you to take a look at the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) that was signed by President Trump on March 27, 2020, as this may provide relief to some of your clients. The Act increases the debt limit eligibility threshold to \$7,500,000 for small business debtors filing under Subchapter V. Additionally, the Act provides relief to consumer debtors through the following:

- ♦ The Act amends § 101(10A)(B) to exclude payments under federal law related to the coronavirus for purposes of calculating a debtor’s current monthly income.
- ♦ The Act amends the definition of disposable income under § 1325(b) to exclude payments under federal law related to the coronavirus for a Chapter 13 plan of reorganization.
- ♦ The Act provides for a new subsection (d) to § 1329 to allow for a debtor who already has a confirmed plan as of March 27, 2020, after notice and hearing, to modify their confirmed plan based on a showing of material financial hardship caused by the pandemic, including modifying the payment term to extend up to seven years after the first payment under the original confirmed plan was due.

However, these provisions are subject to a sunset clause and will only be available to debtors for one year from March 27, 2020.

I also want to remind you of the protocol the Court expects with telephone dockets. All bankruptcy hearings in the Middle District of Alabama will be conducted via telephone through May 31, 2020, unless that date is later extended by the Court. Please keep in mind that even though you may be in the comfort of your office or home, the Court expects you to treat these hearings as if you are in the courtroom. Below are a few reminders of the Court’s expectations of lawyers and parties on telephone dockets.

- ♦ Mute your phone while you are waiting on the call for your case to be called.
- ♦ Do not put your phone on hold.
- ♦ Do not participate by speaker phone unless it is absolutely necessary.
- ♦ Choose a quiet place where you can be heard clearly and background noise will not interfere with the proceedings.
- ♦ Announce your appearance when your case is called.
- ♦ Let your client know before the hearing if he or she needs to participate in the telephonic hearing.
- ♦ When your case is called, advise the judge if at any time during the hearing you cannot hear what is being said.
- ♦ Devote your full attention to the call to avoid mistakes and misunderstandings.
- ♦ Be familiar with the Court’s procedure to reconnect if you are disconnected during a hearing.

If you have concerns regarding changes you may need to make to your practice or questions regarding court proceedings, do not hesitate to reach out to us through email at [feedback@almb.uscourts.gov](mailto:feedback@almb.uscourts.gov). Lastly, and most importantly, until I see you in my courtroom again, please stay healthy and safe.

## Trustee's Tips

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

Hope this finds you all safe and healthy. To maintain compliance with state and CDC guidelines on the number of people gathered in one location, the Trustee's office has been required to make some changes in its daily operations. With one of the changes, you will find that you no longer receive a live phone attendant. If you call the Trustee's office, you are directed to leave a message in one of our department voice mail boxes. Your message will be returned as soon as possible. If you know your party's extension, you may dial it directly through the automated phone attendant. We will return to live phone attendance when this pandemic has passed and our office returns to normal operations.

Just a reminder in these trying economic times, if your debtor finds himself out of work, LBR 3015-4 provides that the debtor may request an excusal of payments administratively through the Chapter 13 Trustee. The debtor should file a motion for excusal of plan payments only if the Trustee denies the debtor's request. If a motion to excuse is filed, it should be done using the LBR 9007 negative notice ECF event. During this time of upheaval due to the COVID-19 pandemic, the Trustee has expanded the criteria for granting excusals.

Please remember that under the new procedures for performing §341 meetings via teleconference, the Trustee's office needs the debtor's driver's license emailed or uploaded to 13documents.com a minimum of two business days prior to the meeting. Also, as a reminder, even though we are now doing judges' dockets via teleconference, we are still doing our pre-docket call at 8:30 a.m. prior to the judges' dockets. Please be prompt, as these things take a little longer on the telephone.

I have already received several inquiries regarding the provision of the CARES Act which allows for modification of the debtor's plan. First, it is important to note that this provision of the Act only allows for the modification of the debtor's plan if the plan was confirmed prior to the date of enactment of the Act. It does not allow for the filing of new cases with plans in excess of five years. Further, the plan may only be modified when the debtor is "experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID-19) pandemic." Please be advised that if you seek to modify the debtor's plan under this new provision, your motion to modify plan will be set for an adjourned meeting of creditors and will appear on the court's docket for confirmation, as this new act requires the modified plan be set on notice and hearing. One of the things the Trustee will require before she can recommend the modified plan for confirmation is documentation to substantiate the debtor's claim that he has suffered from direct or indirect material financial hardship as a result of the COVID-19 pandemic. So please have your debtor's documentation gathered and provide it to the Trustee via the 13documents.com portal prior to the adjourned meeting of creditors. We have created a new document type in the 13documents.com portal named "COVID-19 documentation" for this specific purpose.

Please see the Trustee's website under the forms tab for a new form to use in situations where your debtor has damaged or totaled a vehicle and you need to address an insurance settlement. The form is called "motion to use cash collateral in chapter 13 cases" and can be filed using the Rule 9007 negative notice motion ECF event.

## Trustee's Tips, continued

We are still having some issues with HAVEN Act cases where debtors are not providing the required documentation for the Trustee's review. If you have a case where you contend your debtor's VA disability income should not be calculated as part of the disposable income test, the Trustee's office needs a copy of the summary of benefits letter from the VA prior to the §341 meeting of creditors. In some cases, we also need the CSRC or CRDP pay statements. Please keep this in mind, and provide these documents to the Trustee via the 13documents.com portal.

In business cases, Schedule I – 8a states “attach a statement for each property and business showing gross receipts, ordinary and necessary business expense, and the total monthly net income.” Your software should prepare these statements for you if you input the information into your system correctly. You all know that we ask for this information in all business cases. If it were filed as part of the schedules, it would be very beneficial and would help streamline the §341 process.

We understand that these are trying times. We hope you will be patient and flexible with your colleagues and the Trustee's office while we are adjusting to this situation. We remain open for business and committed to serving the needs of the Chapter 13 community during this time of crisis. However, because many of us are working remotely, we may not be able to respond as quickly as usual. Thank you for your patience. Please email me if you have any questions or concerns. Please stay safe and healthy.

## Extension of Telephonic 341 Meeting of Creditors

**Danielle Greco, Bankruptcy Administrator**

Due to the spread of the COVID-19 virus and consistent with the bankruptcy court's Amended Administrative Order 2020-06, entered on March 27, 2020, all 341 meeting of creditors will be held telephonically through May 31, 2020. A notice with call-in information for each meeting will be issued by the clerk's office in each affected case. Please carefully check the notice for each docket because the call-in number and access code may change based on the number of 341 meetings being held in the Middle District on a given day. An amended announcement detailing the temporary policies and procedures can be found on our website ([www.almba.uscourts.gov](http://www.almba.uscourts.gov)).

As a reminder, to make the telephonic process as efficient as possible and to enable the trustee to verify a debtor's identity, a copy of the debtor's government issued identification (e.g., driver's license, passport, etc.) **MUST** be sent to the trustee via email by 12:00 noon two business days before the 341 meeting.

The email should be directed as follows:

- ♦ Montgomery chapter 7 cases: [cwilkins@cbwlegal.com](mailto:cwilkins@cbwlegal.com)
- ♦ Opelika chapter 7 cases: [cwilkins@cbwlegal.com](mailto:cwilkins@cbwlegal.com)
- ♦ Dothan chapter 7 cases: [wearn@billcarn.com](mailto:wearn@billcarn.com)
- ♦ All chapter 13 cases: [www.13documents.com](http://www.13documents.com)

If you have questions, please call the bankruptcy administrator's office at (334) 954-3900 or send an email to [ba@almb.uscourts.gov](mailto:ba@almb.uscourts.gov). Thank you in advance for your patience and cooperation in implementing these temporary changes.



# HELPFUL TIPS

## FROM THE CLERK'S OFFICE

### Case Administrators

- ♦ Judge's initials are not required on any documents, and oftentimes they are wrong. Save yourself the trouble of a submission error by omitting them from the documents.
- ♦ When you file a voluntary petition, in Part 2, #9, list only prior cases filed within the last eight years. Please verify that the case number and the date the case was filed are correct.
- ♦ It is a good idea to periodically ensure you are using the most up-to-date bankruptcy forms. Doing so will help prevent submission errors.
- ♦ When requesting an ECF account, please make sure your application is typed and not handwritten. The only part of the application that should be handwritten is the signature. Handwritten applications are sometimes hard to read, and the email address often is not legible. The information on the form, especially the name and email address, are critically important.
- ♦ If you have never filed an Application to Employ Professional Person in our court, before you do, please call the court at 334-954-3800. We can help you and save you some time up front.
- ♦ Make sure the name on the income records is listed as one of the names on the petition. If the name is not listed on the petition, file an amended petition and add the name listed on the income records in part 2 of the petition.
- ♦ The financial management certificate should be filed at the beginning of the case.
- ♦ Do not include the last four digits of the debtor's SSN in the heading of pleadings.
- ♦ When filing a new bankruptcy case, remember to select the division in which you and the debtor would like to have hearings set. This will prevent the need to file a Notice of Venue Change and avoid the hassle of changing case numbers.

### Courtroom Deputies

Attorneys wishing to appear telephonically should contact the courtroom deputy directly to make their requests. Giving the courtroom deputy sufficient notice ensures that we are able to accommodate each request as quickly as possible.

### IT Department

NextGen is coming! To prepare yourself for the rollout this fall, please start the process of updating your existing PACER account now. As a reminder, all filers will need to have a PACER account. Offices can set up administrative accounts to manage all payments under one account. Please see the ALMB website at <https://www.almb.uscourts.gov/nextgen-cmecf-deployment-information> for additional information.



## Finance Department

### Avoiding Duplicate Pay.gov Charges

We have recently noticed an increase in duplicate Pay.gov charges. Occasionally, a charge will settle, but the receipt does not reach CM/ECF and the charge remains available for you to settle again. Please avoid using the back button or submitting your payment more than once when settling your Pay.gov charges. If you think there is an issue with the payment, give us a call at 334-954-3800 and ask to speak with someone in the financial department. Don't worry if it is after hours, just give us a call the next morning.

### Unclaimed Funds Locator

We recently went live on the U.S. Courts Unclaimed Funds Locator. Check it out at <https://ucf.uscourts.gov>. (NOTE: this requires Internet Explorer 9+ with the compatibility mode OFF, Safari, Firefox, or Google Chrome). You may search all courts at once or search a specific court. To search for unclaimed funds for this court, use the dropdown menu to select ALMB – Middle District of Alabama and enter your applicable search criteria.

Instructions for filing for unclaimed funds are located on our website at <https://www.almb.uscourts.gov/unclaimed-funds>.

## New Procedures During COVID-19 Crisis

### Brian Suckman, Information Systems Manager

1. Because our court and 341 hearings have gone completely to telephone dockets, we have drafted guidance for muting your phones. If you are not familiar with muting your phones, just go to our website and see the guidance under Attorney Resources > Procedures for Attorneys.
2. We have updated both Local Forms 2 to add telephone docket locations. Please make sure you get the correct telephone number from the trustee's office or the BA's office before submitting the form in ECF, otherwise, you will have to notice the hearing again.
3. Sworn or unsworn, that is the question. If you are required to produce an affidavit as part of a motion or other filing, an unsworn statement under penalty of perjury maybe submitted as long as the declarant includes the language required in 28 U.S.C. § 1746. This will reduce the burden on obtaining a physical notary while we are living with COVID-19.
4. Finally, though not related to COVID-19 issues, we have updated Local Form 6a and Local Form 6c to add a new selection regarding domestic support obligations. This selection is to be used if you are filing a motion for discharge, but your debtor has not completed required domestic support obligations.

# Black History Month

## Thirteenth Annual Black History Celebration



February 27, 2020, marked our thirteenth annual Black History Celebration. The Honorable Myron H. Thompson, Senior Judge, Middle District of Alabama presided over the program. The theme was “Be the Change You Wish to See in the World.”

The keynote speaker for the event was The Honorable Steven Reed, Mayor of Montgomery. Mayor Reed spoke on the impact fairness of the judicial system has on everyone. He stated fairness demands that everyone in society be treated equally and that each of us will have a better quality of life when true justice is provided for everyone.

Entertainment was provided by the Men’s Glee Club of Tuskegee University. Following the program guests enjoyed a reception sponsored by the Middle District of Alabama.



## State Champions Again!

Our very own Kerwin Washington, the office’s IT specialist, is a champion again. The boys basketball coach at Evangel Christian Academy led his team to the AISA high school state championship again this year. In Kerwin’s eight years at Evangel as head coach, he has led them to six trips to the final four, four trips to the finals, and three state championships. We are very proud of Kerwin and all of the great things he is doing for Evangel and for the kids he is coaching. Super job, Coach Washington!



# Personnel Changes in the Clerk's Office



After many years working with the court, two of our case administrators, Desma Russell (pictured left) and Elizabeth Walker (pictured right) have retired. We will miss their sweet spirits and dedication to the office. We wish them both the very best that retirement has to offer!



Desma was one of the court's trusty ECROs, and her retirement left an open ECRO position. Kelley Martin, one of our newer CAs, has already begun training for the position and will soon become a familiar face in the courtroom.



One of the case administrator vacancies was filled by Caitlin Ray. Caitlin joined the court as an administrative assistant in 2017. She was promoted to case administrator in February and has recently been assigned to cases ending in digit eight.

The second case administrator vacancy was filled by Jill Weiss. Jill was born in Lafayette, Indiana, and attended Purdue University. She started with the bankruptcy court in Indianapolis in June of 2001. While there she helped the clerk's office transition to CM/ECF NextGen and served as a case administrator trainer. She joined our office in March and is excited to get settled into a routine with her husband and three children. Welcome to the team, Jill!

