



Court News and Views

THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

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Clerk's Corner JC Guerrero

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Welcome to another edition of our newsletter!

Chambers: This has been another busy year for chambers! The judges changed their dockets in July, so now Judge Sawyer has Montgomery 13s and Dothan 7s, and Judge Creswell has all of Opelika, Dothan 13s, and Montgomery 7s. Julia Caro retired as Judge Sawyer's judicial assistant, and Kimberly Waldrop moved over to be his first-ever career law clerk. And both judges hired new term law clerks: Nick Lamparski joined the court with Judge Creswell in August, and Hayden Sneed joined the court with Judge Sawyer in September. You can read Nick's and Hayden's bios on page 11.

New Rules and Amendments: The four rule changes that go into effect on Dec 1 may affect your practices. Please see the overview we put together on page 6. You can read the text of all the changes at uscourts.gov. Click on Rules and Policies and then click on Pending Rules and Forms Amendments.

New Statutes Affecting Bankruptcy Practice: In addition to the new bankruptcy rules, we have several new statutes that have gone into effect already or will go into effect soon. Please see Jessica Brown's article on page 5 for the highlights of each act, and see Laura Hethcox's article on page 6 for a more in-depth look at the HAVEN Act.

NextGen: we are officially on the schedule to upgrade to CM/ECF NextGen in the fall of 2020. ALNB went live on it last year, and ALSB is scheduled to go live in the spring of 2020. The most significant change you will see is the single sign-on feature. You will have to upgrade your PACER account to use NextGen, but that gives you the added bonus of having just a single username and password for any court on NextGen.

Tools and ECF Procedures for Attorneys: We have begun placing tools and ECF procedures for attorneys on our website. Hopefully, by using these procedures you will find yourselves with fewer submission errors, thereby saving yourselves time, money, and frustration. We started the project over the summer and plan to add more procedures and tools over the next few months. See our article on page 8 for a list of the tools and procedures that are already available for your use.

Webpage and Email Updates: please continue to monitor our webpage 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 right hand corner of our homepage (under the Email Updates section).

Attorney Forums: Finally, don't forget to join us for our upcoming attorney forums. See page 12 for the dates, times, and locations.

Thank you again for taking the time to read our newsletter. Please continue to give us feedback on how we can make it better. Until next time...

Three Cheers for Negative Notice

William R. Sawyer, Chief U.S. Bankruptcy Judge

I have been on the bench here in the Middle District since 1999. Prior to that, I practiced bankruptcy law in more than a dozen bankruptcy courts, none of which were the Middle District of Alabama. After sitting through my first few motion dockets here, I immediately saw the wisdom of local court rules that provided for negative notice. Without it, dockets stretch on interminably. Ironically, only very few items of substance were typically handled. In the early 2000s, we enacted local rules, several of which provided for negative notice. The purpose of this article is to review the basics of negative notice procedures in this District and to warn practitioners of potential pitfalls unique to the practice.

By negative notice, I refer to those motions and objections that are filed which are granted without a hearing if the opposing party fails to respond within a set time, usually 21 days. This Court's rule governing motions filed under negative notice procedures is Local Rule 9007-1. Under the Court's present rule, 20 different kinds of motions may be filed under that rule. In addition, under Local Rule 3007-1, objections to claims may also be filed using negative notice procedures.

To begin, motions which may be filed using negative notice procedures should be filed under those procedures. In rare circumstances, a lawyer may want a hearing, even if no objection is filed. If that is the case, the lawyer should title his motion, "Motion for X and Request for Hearing." Conversely, motions which are not of the kind listed in Local Rule 9007-1, should not be so filed.

Because motions filed under negative notice practice are granted automatically once the 21-day period has passed, service of process can be a problem. Motions should be served in accordance with the Rules. A negative notice motion which is not properly served is not worth the paper it is written on—it is granted by way of a form order duly generated and issued after 21 days. The most common problem is where the respondent is a corporation and the movant fails to serve an officer. See, Rule 7004(b)(3), Fed. R. Bankr. P., made applicable by Rule 9014(b), Fed. R. Bankr. P.

Motions to avoid liens to preserve exemptions pursuant to § 522(f) are among the most frequently filed motions in this Court. Perhaps as a result of complacency, many of these motions are flawed for want of specificity in the motion. Because the motions are granted according to their terms, if the motion is not specific, the order granting it is meaningless. While most motions are not contested because the amounts are small, a lawyer who has grown used to filing form motions devoid of specificity may find themselves embarrassed when a creditor takes the position that the lien has not been avoided.

Objections to claims are filed in large numbers under the negative notice rules and are rarely contested. The objection should state clearly what is requested and why it should be granted. For example, if a creditor files a claim improperly claiming a priority under 11 U.S.C. § 507, the objection should state that the claim should be allowed as unsecured because the claimed priority is invalid. If a creditor files a proof of claim but neglects to attach supporting documents, that failure in and of itself is insufficient. That is, the objection should state an underlying objection on the merits.

Trustee's motions to dismiss Chapter 13 cases for want of Plan payments are filed in large numbers and are made by negative notice. Rule 1017-1(d)(2). It is the rare docket which passes without at least one motion to vacate an order of dismissal because a hapless debtor neglected to respond to his lawyer, or a hapless lawyer failed to timely file a response following a request to do so by his client. While the Court is usually liberal in granting such motions, lawyers who abuse the privilege may be disappointed to find their motions to vacate denied.

In sum, motions filed under the Court's negative notice rules save the practitioner and the Court a great deal of time. Here are a few key practice points:

1. Make sure the motion filed under the negative notice rules is one that is within the scope of the rules.
2. Include the negative notice legend at the top of the motion.
3. Make sure the relief requested is clear and is proper under the type of motion filed.
4. Serve the motion correctly under the rules, and state specifically on the certificate of service who was served and at what address.
5. When receiving a negative notice motion, calendar a deadline so your response, if necessary, is timely filed.
6. If a negative notice motion is filed, the respondent must file a response to avoid a default. Simply curing the underlying issue will not prevent a default.

WELCOME DANIELLE GRECO, BANKRUPTCY ADMINISTRATOR



Danielle K. Greco was sworn in as the bankruptcy administrator for the Middle District of Alabama on June 27, 2019. She rejoins the judiciary after practicing at Troutman Sanders LLP in Raleigh, North Carolina. Prior to her work at Troutman Sanders, Ms. Greco served as the attorney advisor for the BA program at the Administrative Office of US Courts (the AO) in Washington, DC. She joined the AO after clerking in the Northern District of Alabama for Chief Judge Robinson and Judge Mitchell, and then serving as Judge Bennett's career clerk. Prior to clerking, Ms. Greco started her career at Moore & Van Allen, PLLC in Charlotte, North Carolina, before shifting her focus from corporate creditor work to corporate debtor work and moving to Birmingham, Alabama, to work at Bradley Arant Boult Cummings. Having spent her whole career practicing in BA districts, she is excited about her new position and role in the Middle District.

Ms. Greco earned her B.A. in Political Science from North Carolina State University and her J.D. with honors from the University of Texas School of Law. She is married to Tony Bryant, a Gadsden native, and they have a two-year-old daughter.

Chapter 13 Trustee's Tips

Sabrina L. McKinney, Chapter 13 Trustee

Hope this finds you all well! We have a couple of new things going on at the Trustee's office we would like to share with you this edition.


Starting October 1, 2019, we will have a new email address at the Trustee's office called whatsmybalance@ch13mdal.org. If you or your debtor need a case payout figure, please email your request to our new email account. The email will then be auto processed by the system and routed to the appropriate person in the Trustee's office who will perform a case audit and email you the audited balance. Please be aware that if your clients call our office for their balance, they will also be directed to this email box for service. This will cut down on phone calls and ensure that the proper audited figures are provided in writing.

For the users of the 13network, you should know that the 13network was recently upgraded by our software vendor. The transition to the 13network was to ensure that debtors' data is maintained at the highest level of security. If you use the 13network and your link is no longer working, you need to save it again because the URL for the Trustee's individual site has changed. If you find you are having any difficulties with this new enhanced site, please contact the Trustee's office to inform us of your difficulties. You may have noticed that the "matter calendar" is now accessible for your use. The matter calendar will enable you to see the updated status of your cases on a docket. If there are outstanding issues not yet resolved, you should be able to see the case notes that set out what issues need to be resolved before the case can be confirmed. It will also provide information on other matters such as motions to dismiss, motions for relief, etc. If you have questions about the matter calendar, please contact the Trustee's office, and we'll walk you through this feature.

Many debtors' counsel are used to seeing no provision letters after confirmation. We have instituted a new procedure where the letters are now being sent starting the first day of the case. Because these letters inform debtors and their counsel of no provisions claims early in the case, we hope this will help cut down on post-confirmation motions to modify plan. If you receive one of these letters prior to confirmation, please address these issues as soon as possible so we can move forward to recommending the case for confirmation.

Finally, I would like to thank all of you for your patience and cooperation during the National Data Center tablet project. We have increased our debtor usage of NDC.org by more than 300% with the use of the tablet for signup at 341 meetings. As this has proven to be a success, we will continue to sign up debtors for this online access to their case via the NDC tablets at the 341 meeting. I would also like to remind you all that the National Data Center is not just for debtors. Attorneys may use the NDC as well. This is particularly useful for those of you who practice in more than one district because all but four chapter 13 trustees in the nation are participating in the NDC.org network.

Here's hoping that the cooler fall weather will be coming soon. Please keep an eye on our website for any new projects or changes at the Trustee's office. As always, please feel free to contact us if there is ever anything we at the Trustee's office can do to assist you.



Bankruptcy and the Internal Revenue Service: Taking a proactive approach to tax issues can help prevent problems down the road

Civil Division, U.S. Attorney's Office, M.D. Alabama

The United States Attorney's Office represents the Internal Revenue Service (IRS) once an objection to a proof of claim is filed in a bankruptcy proceeding. Prior to the involvement of this office, however, a debtor filing for bankruptcy can run into numerous issues with taxes that can probably be avoided with a little proactive planning. Here are a few suggestions to help debtors' attorneys navigate the complex world of the IRS and taxes when filing for bankruptcy:

1) As an initial matter, if you know your client has tax issues, be sure to list the Internal Revenue Service, Centralized Insolvency Office (IRS/CIO), P.O. Box 7436, Philadelphia, PA 19101-7346 in the creditor's matrix. Furthermore, just in case there may be tax issues, it is advisable to list the IRS at the address above as Notice Only, which should insure that the IRS receives proper notice of the filing. Early and proper notice to the IRS is the best way to prevent last minute tax issues arising that may delay or disrupt the regular progress of a bankruptcy case.

2) If the IRS/CIO was not initially notified of the bankruptcy filing and you need to add them as a creditor later in the case, then the 341 notice needs to be faxed to them. The fax number is 855-235-6787.

3) The IRS/CIO can help you navigate some issues in your case. For example, if you need to have a levy released, please call the IRS/CIO. The telephone number for the IRS/CIO is 800-973-0424 and the hours of operation are Monday – Friday, 7 AM to 10 PM (Eastern Time).

4) Once a bankruptcy is filed and the IRS receives proper notice, if the debtor has unfiled returns, a Letter 1714CG with attached Form 13736 is sent to the debtor's attorney, the debtor, and the chapter 13 trustee. This letter is the initial notice that returns have not been filed. 11 U.S.C. §1308(a) states: "Not later than the day on which the meeting of the creditors is first scheduled to be held under section 341(a), the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with the appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition."

5) The IRS has insolvency specialists who handle cases in the Middle District of Alabama. They are in Fresno, Oakland, Seattle, San Bernardino, and Nashville. Each of these specialists is more than willing to work with debtors' attorneys to resolve tax issues. If you need telephone numbers and/or email addresses for any of the insolvency specialists, please do not hesitate to contact our office at 334-223-7280.

6) Upon the initial filing of the bankruptcy, we recommend you contact the IRS insolvency specialists to obtain an account transcript and a wage and income transcript for the 4-year period prior to the petition date.

7) Once a proof of claim (POC) has been filed in a bankruptcy, look at Part 3 of the POC for the correct insolvency specialist to contact. If the POC states, "Estimated-SEE NOTE," it is usually for unfiled returns. You can email the returns (signed and unredacted) to the insolvency specialist prior to filing an objection to an IRS claim. Most objections can be resolved prior to the filing of the objection.

8) Service of objections to IRS claims - objections to claims are contested matters governed by Bankruptcy Rules 3007, 7004, and 9014. The objection to an IRS claim must be mailed to each of the following:

- (a) The Attorney General of the United States, 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001;
- (b) United States Attorney's Office, Middle District of Alabama, P.O. Box 197, Montgomery, AL 36101-0197; and
- (c) the Internal Revenue Service, Centralized Insolvency Office, P.O. Box 7346, Philadelphia, PA 19010-7346.

In addition, we recommend, though it is not required, that you mail a copy of the objection to the insolvency specialist listed in Part 3 of the POC. The U.S. Attorney's Office does not get notice of the filing of an objection via CM/ECF. As a result, service must be made by mail at the above addresses. Once properly served, the United States Attorney's Office is involved in the bankruptcy case.

In sum, the U.S. Attorney's Office highly encourages debtors' counsel to be proactive in dealing with the IRS on tax issues and to contact the IRS as early as possible to resolve any problems that might arise which might delay confirmation. Tax issues can often be resolved prior to the need to file any objections to claims.

New Bankruptcy Laws: Highlights

By Jessica Brown, Career Law Clerk to Judge Creswell

On August 23, 2019, the president signed into law three bankruptcy bills: the Family Farmer Relief Act of 2019, the Honoring American Veterans in Extreme Need Act of 2019 (the “HAVEN Act”), and the Small Business Reorganization Act of 2019. Although significant effects can be anticipated, the first two laws (Family Farmer and HAVEN) call for relatively minor changes to 11 U.S.C. §101. However, the Small Business Reorganization Act of 2019 adds an entirely new subchapter to chapter 11 of the bankruptcy code (in addition to various conforming amendments). Brief highlights of the changes are discussed below, but all attorneys and parties are encouraged to independently study the new laws.

FAMILY FARMER RELIEF ACT OF 2019

PL 116-51, August 23, 2019, 133 Stat 1075

Effective Date: Immediately

Highlights: Amends section 101(18) with respect to the definition of “family farmer” by increasing the debt limit to \$10,000,000

Significance: The increased debt limit potentially expands relief for America’s family farmers by enabling more to qualify for chapter 12 relief.

HONORING AMERICAN VETERANS IN EXTREME NEED ACT OF 2019 (“HAVEN Act”)

PL 116-52, August 23, 2019, 133 Stat 1076 [See page 6 for a more detailed article on this Act.]

Effective Date: Immediately

Highlights: Amends section 101(10B) to exempt from the calculation of monthly income certain benefits paid by the Department of Veterans Affairs and the Department of Defense

Significance: Excludes from current monthly income calculation a myriad of veteran benefits

SMALL BUSINESS REORGANIZATION ACT OF 2019 PL 116-54, August 23, 2019, 133 Stat 1079

Effective Date: February 2020

Highlights:

- ♦ Amends chapter 11 by adding “SUBCHAPTER V—REORGANIZATION OF SMALL BUSINESS DEBTORS.” In addition, 11 U.S.C. §101(51D)’s definition is amended.
- ♦ Debtors must “opt-in” by checking a box on the voluntary petition.
- ♦ A mandatory status conference is required within 60 days of filing, and a pre-status conference report is due 14 days prior to the status conference.
- ♦ A standing trustee is appointed in every case and is paid like a trustee in a chapter 12 or 13 case. The standing trustee has a myriad of duties which include appearing at various hearings, facilitating the development of a plan, ensuring the debtor makes timely payments under a plan, and distributing the debtor’s payments under the plan to creditors.
- ♦ Only the debtor may file a plan. Absent exceptions and an order from the bankruptcy court, a plan must be filed no more than 90 days after the entry of the order of relief.
- ♦ The Absolute Priority Rule does not apply.
- ♦ A disclosure statement is not required, but the plan should include a brief history of business operations, a liquidation analysis, and projections of the debtor’s ability to make payments.
- ♦ Section 1191 deals with confirmation of the plan and provides that “all of the requirements of section 1129(a), other than paragraph (15), of that section” are met.
- ♦ 3- to 5-year plan terms.
- ♦ Subject to certain qualifications, a plan can modify the rights of holders of claims secured by the debtor’s principal residence.
- ♦ The plan must be “fair and equitable.”
- ♦ All plan payments are made through the standing trustee.
- ♦ The debtor’s counsel can have a pre-petition claim of less than \$10,000 and remain disinterested.

Significance: The new subchapter expands opportunities for both debtors and debtors’ attorneys. The Small Business Act provides guidelines, clarifications, and possibilities for a class of debtors that previously subsisted with few resources.

Means Test Update: HAVEN Act

By Laura M. Hethcox, Paralegal
US Bankruptcy Administrator's Office

Many of our military veterans face physical and emotional barriers after serving their country and are struggling to overcome financial burdens and hardships as a result. Based on statistics provided in the 2018 VA Annual Benefits Report, approximately 4.74 million U.S. veterans or 25 percent of the total veteran population receive VA disability benefits. On August 23, 2019, the president signed into law the Honoring American Veterans in Extreme Need ("HAVEN") Act which became effective immediately.

The HAVEN Act was designed to bring veteran's disability benefits on par with Social Security disability payments as those benefits relate to calculation of current monthly income. Prior to the enactment of the HAVEN Act, Social Security disability benefits were excluded from the calculation of a debtor's disposable income under the chapter 7 means test, whereas veteran's disability benefits were not excluded. This has had the effect of forcing disabled veterans into chapter 13, along with committing those benefits to funding chapter 13 plans.

The HAVEN Act excludes from the calculation of "current monthly income," for purposes of the means test, certain disability payments benefits paid by the VA and DoD as referenced below:

- | | |
|---|---|
| <ul style="list-style-type: none">• Permanent Disability Retired Pay• Temporary Disability Retired Pay• Retired or Disability Severance Pay for Preexisting Conditions• Disability Severance Pay• Combat Related Special Compensation• Survivor Benefit Plan for Chapter 61 Retirees | <ul style="list-style-type: none">• Special Survivor Indemnity Allowance• Special Compensation for Assistance with Activities of Daily Living• VA Veterans Disability Compensation• VA Dependency and Indemnity Compensation• VA Veterans Pension |
|---|---|

Debtors' attorneys should ensure they familiarize themselves with the HAVEN Act and are prepared to exclude these benefits from their clients' disposable income going forward. The new law provides much needed relief and a fresh financial start to those veterans in need of assistance.

See HR 2938, Pub. L. 116-52. See revisions to Section 101(10A) of Title 11, United States Code.

Amendments to the Federal Rules of Bankruptcy Procedure Effective December 1, 2019

Rule 4001 Relief from Automatic Stay...(c) Obtaining Credit - This subdivision no longer applies in a chapter 13 case.

Rule 6007(b) Abandonment or Disposition of Property, *Motion by Party in Interest* - The rule now specifies which parties are to be served with the motion and any notice of the motion. The amendment also establishes an objection deadline of 14 days; if a timely objection is made, the court must set the motion for hearing – noticing the bankruptcy administrator. Also, the rule clarifies that once an order has been entered on a motion filed under subdivision (b), no further action is necessary to notice or effect the abandonment of property outlined in the motion.

Rule 9036 Notice and Service Generally - The rule has been amended to permit both notice and service by electronic means. Note that a filer who receives notice that the transmission failed is responsible for making effective service.

Rule 9037(h) Privacy Protection for Filings Made with the Court, (h) *Motion to Redact a Previously Filed Document* - Parties seeking to redact information protected under subdivision (a) must file the motion to redact identifying the proposed redactions and the docket or the proof-of-claim number of the previously filed document. The party must also attach the proposed redacted documents to the motion and serve the motion and attachment on the debtor, debtor's attorney, trustee (if any), bankruptcy administrator, filer of the unredacted document, and any individual whose personal identifying information is to be redacted. The court will restrict public access to the motion and the unredacted document until the motion is ruled upon. If the motion is granted, the court will docket the redacted document.

Practice Pointers

I. Default: Requesting Entry of Default and Filing Motions for Default Judgment

Applicable Rules: Fed. R. Bankr. Proc. Rule 7004. Process, Service of Summons, Complaint, and Fed. R. Bankr. Proc. Rule 7055. Default

If a party against whom judgment is sought has failed to answer the complaint or otherwise defend, the plaintiff may request that the clerk enter default against the defendant. Rule 7004 governs processing and service of the summons and complaint. Two examples that are frequently overlooked are 7004(b)(3), serving a corporation, partnership, or association, and 7004(h), serving an insured depository institution.

- 7004(b)(4): Corporation, Partnership, or Association - service must be made by first class mail on an officer, partner, or a registered agent
 - 7004(h): Insured Depository Institution - service must be made by certified mail on an officer of the institution
- Additionally, 7004(e) states that all summons and complaints must be served within 7 days after the summons is issued. It is important to understand the requirements of Rule 7004 to ensure a proper request for entry of default is filed.

Default is a two-step process. First, you ask the clerk to enter default. Since this is a request, the body of the request should not "move the court" to do anything. Instead, ask the clerk to enter default. The clerk will ensure the requirements of Rule 7004 have been met, so do not forget to upload the summons, complaint, and certificate of service. File your request for entry of default by using this docket event: *Adversary > Miscellaneous > Request for Entry of Default*

If the clerk determines all requirements are met, default will enter, and you may file a motion for default judgment using this docket event: *Adversary > Motions > Default Judgment*

II. Filing Dismissals in Adversary Proceedings

Applicable Rule: Fed. R. Bankr. Proc. Rule 7041. Dismissal of Adversary Proceedings

A court order is not always required to dismiss an adversary proceeding. Rule 7041(a)(1)(A)(i) states that the plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Rule 7041(a)(1)(A)(ii) states all parties who have appeared may join together and dismiss an action by a joint stipulation of dismissal.

Before docketing the dismissal, double-check the following to avoid common errors:

- The style of the case contains the correct case information
- The body of the document cites the correct rule (plaintiff's dismissal or joint stipulation)
- The body of the document clearly states which parties are being dismissed
- The body of the document states whether the dismissal is with or without prejudice

Use the following docketing events to file dismissals:

- 1) Plaintiff's dismissal: *Adversary > Notices > Dismissal in an adversary proceeding*
- 2) Joint stipulation of dismissal: *Adversary > Notices > Stipulated dismissal in an adversary proceeding*

If there are no errors on the notice, the clerk will acknowledge the dismissal and close the adversary proceeding.

Updates to Local Rules

In June, the Eleventh Circuit judicial council approved new updates to our local rules. Summaries of the updates are below. Please go to our website and review the full text of the rules.

- LBR 5005-1: Any supporting documentation to a filing must be filed as separate attachments using the same docket entry number. Each attachment should be described so it clearly identifies the content of the document. This allows the court to easily identify and navigate the various components of a filing.
- LBR 9037-1: To prepare for the nationwide changes to the Bankruptcy Rules, effective December 1, 2019, we amended our local rule on how redactions are processed. Motions to redact must now include the motion itself which identifies the docket entry or proof of claim number of the original document, the proposed redacted document, and a certificate of service. This change prevents the hassle of remembering to file the redacted replacement document after the order has been entered.
 - If you have questions about filing a redaction, please call Morgan Jackson-Flowers, the case administrator in charge of reviewing redactions, at 334-954-3854.

To help navigate these changes more smoothly, we have drafted procedures that give detailed descriptions of the steps you should follow to file attachments and motions to redact. Please see the Attorney Tools article below for more details on these procedures.

Attorney Tools

Over the summer, we implemented two new tools for attorneys on our website: a 30-day calendar and a link which will take you to procedures for attorneys.

The attorney 30-day calendar populates all the calendared events for the next 30 days for a given attorney. This allows an attorney to easily see his or her upcoming court dates and keep track of cases.

The link for ECF procedures for attorneys currently includes five procedures that are ready for use: the E-Orders Guide, Adding Attachments to a Document in ECF, Filing Redactions, Filing Dismissals, and Default: Requesting Entry of Default and Filing Motions for Default Judgment. They give invaluable instructions to help you with these filings.

Both the 30-day calendar and the procedures link can be found on our website, <https://www.almb.uscourts.gov>, under the Attorney Resources tab. We plan to add more procedures over the next few months, so check back often. Also, please let us know if you have suggestions for additional procedures.

Feel free to bring your thoughts to one of our three attorney forums (see page 12) or call the office at 334-954-3800.

Debtor Electronic Bankruptcy Noticing (DeBN)

As a reminder, please remember to offer debtors the option to sign up for DeBN. DeBN is a free and voluntary service that allows debtors to receive delivery of orders and court-generated notices by email rather than U.S. mail. Debtors who sign up for DeBN will receive emails with pdf attachments when any court-generated notice or order is docketed in their cases.



For more information on DeBN, contact the clerk's office at (334) 954-3800, or visit our website at <https://www.almb.uscourts.gov/debn>.



HELPFUL TIPS

FROM OUR CASE ADMINISTRATORS

- When you file a petition, be sure to add all names the debtor might use. For example, Dorothy Marie Adams might go by Dot Adams. Please add Dot Adams as a name the debtor also uses in part 1: number 2 of the petition.
 - If the debtor is a Jr or a Sr but sometimes does not use Jr or Sr in his name, at the beginning of the case, make sure to add the name without the Jr or Sr. For example: John Doe, Jr., known as John Doe.
- In a joint case, the names of both debtors should be listed in the heading of all documents.
- When you are drafting the style of the case, please follow the guidance here:
 - Use only the full name of the debtor; do not list all of the names he or she has ever used.
 - Do not include any part of the social security number.
 - Judges' initials are not required, but if you use them, type them correctly. Use WRS for Judge Sawyer and BPC for Judge Creswell
- Do not add additional fields to forms and documents. However, if you do add fields, you must fill them in completely. For example: if you add a date field on a chapter 13 plan, then you must fill in the date. If, as part of your signature block, you have blanks for the date, you must fill in the date.
- When you file an amended petition, be sure to edit the docket text to describe what you changed.
- Here is a checklist for amended chapter 13 plans:
 - Include the debtor's name.
 - Include the case number.
 - Check the amended box at the top of the form.
 - Provide a certificate of service showing you noticed all creditors.
 - Include the attorney's signature and date signed.
- If the chapter 13 plan has already been confirmed, then a Rule 9007 motion and certificate of service must be filed along with the amended plan.
- The certificate of service must include language to describe what has been served. For example: **"I hereby certify that a copy of the motion to modify plan post confirmation and amended chapter 13 plan have been served."**
- Reminder about LBR 9011-1:
 - Every pleading or paper filed with this court shall have a signature block at the end of the text with the following information: the full name of each person who signed the paper, at least one complete mailing address, at least one telephone number, and an e-mail address. Signatures may be affixed by any reasonable means, including /s/, on the signature line. A signature block alone does not comply with this rule.
- When your clients fill out money orders for the court, please do not write close to the routing numbers. Sometimes that writing obscures the routing number and we cannot process the money order.



HELPFUL TIPS

FROM CHAMBERS AND COURTROOM DEPUTIES

Chambers filing tip:

- Unless there is an objection, all 9007 negative notice motions will generally receive standard orders. Attorneys have pointed out that some of these orders lack a desired specificity (i.e. orders avoiding liens not containing judgment book information). Proposed or amended orders clarifying the standard order will not be entered or accepted for 9007 motions. When a more detailed order is desired, a hearing is required. To avoid receiving a submission error for not using the 9007 language, be sure to include the words “Request for Hearing” in the title of the motion. For example, title your motion, “Motion for Relief and Request for Hearing” or “Motion to Avoid Lien and Request for Hearing.”

Courtroom deputy tips:

- If you want your motion for relief from stay to be heard on the telephone docket, you must attach an affidavit when you file the motion. Please go to our website and review Judge Creswell’s chamber procedures for more information. If you do not know how to attach a document to a filing, go to our website > Attorney Resources > ECF Procedures for Attorneys for a short article on how to do it.
- When you file a motion to approve compromise or settlement, please remember that all creditors must be served a copy of the motion. This is also true with a motion to approve fees and expenses where the requested amount exceeds \$1,000. Ensuring all creditors are properly noticed will prevent any delay in the motions being set for hearing.



Death and Bankruptcy

Judge Dwight D. Williams, Jr.

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When a debtor dies during the pendency of a bankruptcy case, the debtor’s attorney should look to Fed. R. Bankr. Proc. 1016 for procedural direction. If the debtor’s case is filed under chapter 7, the debtor’s death or incompetency has no effect upon the continuation of the administration of the estate. Therefore, the debtor’s attorney should do nothing more than file a suggestion of death in CM/ECF. The deceased chapter 7 debtor may still receive a discharge in bankruptcy, but counsel, in most cases, should file a motion to excuse the filing of certifications that are otherwise a prerequisite to the entry of an order of discharge.

If the deceased debtor’s case is one under chapters 11, 12, or 13, the rules and procedures are quite different. Under Fed. R. Bankr. Proc. 1016, the case is due to be dismissed unless further administration is possible, and it is in the best interest of the estate and creditors. Bear in mind that a discharge in bankruptcy may be preferable to the debtor’s heirs than the probate administration of the deceased’s estate in state court. As in the chapter 7 setting, the attorney for a deceased debtor in a chapter 11, 12, or 13 case should file a suggestion of death in CM/ECF. What differs, however, is that a statement should be made in the suggestion of death regarding whether further administration of the bankruptcy estate is possible and in the best interest of the parties. If further administration is possible and it is in the best interest of the parties, the court will take no further action regarding the notice of debtor’s death, and the case will continue unabated. On the other hand, if further administration is not possible nor in the best interest of the parties, the court will enter an order dismissing the case prospectively unless a timely objection to the dismissal is filed.

To file a suggestion of death, use the “notice” category of CM/ECF rather than the “motion” category.

WELCOME TO THE TEAM!



Kelley Martin was born and raised in Montgomery, Alabama. She earned her paralegal certificate from Huntingdon College in 2000. She joined the court as a case administrator in September after spending seven years working for Carly Wilkins. Kelley enjoys watching her son play high school football and her daughter cheer for the Marbury Bulldogs.

Joe Spedale was born in Panama City, Florida. He retired from the United States Air Force in July 2019 after 21 years of service. He participated in Operations Noble Anvil, Iraqi Freedom, and Enduring Freedom. He received a B.S. in Legal Studies from the American Military University, and he joined the court as a case administrator in September. During his free time, he likes to read, work out, and spend time with his wife and dogs.



Mark Simonds was born at Fort Hood, Texas, and raised in upstate New York. He served for 20 years in the United States Air Force as paralegal. During this time, he deployed in support of Operation Northern Watch, Operation Southern Watch, and Operation Enduring Freedom. He started with our court in June 2019 as an intern with the Department of Defense's Skills Bridge Program, and upon his retirement he was hired as a procurement and financial assistant. Mark has a B.S. and M.H.A. in Healthcare Administration and is currently pursuing a B.S.B.A. in Accounting.

Hayden Sneed was born in Fort Worth, Texas, and was raised in Plano, Texas. He earned his undergraduate degree from the University of Texas at Arlington in 2012, his JD from Thomas Goode Jones School of Law in 2015, and his LLM from Thomas Goode Jones School of Law in 2016. Prior to joining the court as Judge Sawyer's term law clerk, Hayden practiced law for three years at Grainger Legal Services, LLC. In his spare time, he enjoys watching college football, college and professional baseball, and hockey, and rarely passes up trivia competitions.



Nicholas (Nick) Lamparski was born in Detroit, Michigan. He earned his B.A. in Political Theory and Constitutional Democracy with a Business Cognate from Michigan State University's James Madison College in 2016. He earned his J.D. in 2019 from Washington University School of Law. During law school, Nick served in the Honors Program at the U.S. Securities and Exchange Commission and was a summer associate at a boutique securities litigation law firm. He also interned at Robbins Geller Rudman & Dowd LLP and Williams & Jensen PLLC. When not at work, Nick enjoys spending time with family and friends, golfing, fishing, working out, and listening to music.

All Work and No Play Would Mean Dull Days at the Clerk's Office...

Congratulations on Your Retirement!

After 22 years with the court, Cynthia Sanders, case administrator and HR assistant, retired on June 30, 2019. We will miss Cynthia's work ethic, knowledge, and dedication to the office. We wish her the very best that retirement has to offer!



ANNUAL AWARDS DAY

This year marks significant milestones for several bankruptcy court employees. On August 15th, the bankruptcy court held its annual employee recognition program in which employees were honored for their years of service. Honorees this year were Tony Lacey, programmer analyst (20 years); Kerwin Washington, IT specialist (15 years); Carrie Moore, courtroom deputy (15 years); JC Guerrero, clerk of court (10 years); and Tonya Hagmaier, chief deputy clerk (5 years). In addition to recognizing personal milestones, we celebrated completing our annual goals and other accomplishments in fiscal year 2019.



ATTORNEY FORUMS 2019

Please join us again this year at our attorney forums:

Montgomery – October 30th in the 341 Meeting room (room 105)

Opelika – November 4th in the bankruptcy courtroom

Dothan – November 15th in the bankruptcy hearing room

All forums will begin at 9:30. Feel free to bring members of your staffs.

We look forward to seeing you there!