

# THE COURT CONNECTION

**United States Bankruptcy Court  
Middle District of Florida  
Jacksonville, Orlando, and Tampa/Fort Myers Divisions**

October 2013

The Court Connection

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**MISSION STATEMENT**  
**Our Court serves the public by processing and deciding bankruptcy cases with fairness, impartiality, and excellence, while treating everyone with dignity, integrity, and respect.**  
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## The Season of Sacrifice and Gratitude By: Hon. Karen S. Jennemann

As I write this article, I do not know if the government will reopen this week or not. The Bankruptcy Court will operate as normal through October 17, but, starting the next day, those staff performing essential functions will work without pay and those staff furloughed will not receive pay unless approved by Congress. Everyone at the United States Trustee’s office and civil attorneys at the United States Attorneys’ office started feeling the effect of the government shutdown earlier on October 1.

The Court’s valuable staff anxiously hopes to receive their regular paychecks when Congress approves an appropriation bill or when a continuing resolution is passed but they do not know when that will happen. They may get paid tomorrow or weeks from now. The thought of our folks working diligently every day without any assurance of timely payment is astonishing.

They, like most everyone else, have bills that will come due regardless of whether they receive their paycheck or not. Some have their mortgage or other payments automatically deducted from their paychecks that, this month, may not get paid. We have many single parents that are the only source of income for their family. In some cases, both the husband and the wife are employed by the federal government. Neither will receive a paycheck until the government shutdown ends.

Because only those who actually work are guaranteed pay at some point, all leave is cancelled. Staff who had scheduled needed medical procedures either must cancel the treatment or face the risk they will not be paid in the future. Many people had to delay or defer family trips, including a honeymoon, because leave was canceled. Others have had to hire caregivers to take care of elderly or

*“As we express our gratitude, we must never forget that the highest appreciation is not to utter words, but to live by them”.*

*- John F. Kennedy*

*“Feeling gratitude and not expressing it is like wrapping a present and not giving it.”*

*-William Arthur Ward*

*“I am a member of a team, and I rely on the team, I defer to it and sacrifice for it, because the team, not the individual, is the ultimate champion.”*

*- Mia Hamm*

ill family members because they could not take leave to personally give the care their mother or father needed. Life as we know it in the Judiciary is radically changed.

Yet, in the face of this anxiety and uncertainty, we work, every day. We will keep our court open and functioning as long as possible. We will hold hearings, although you may see some delays or continuances caused by furloughs at other federal agencies. We will process anything you file.

Our folks truly live up to our mission of “serving the public with impartiality and excellence.” They now are doing this at great personal sacrifice to themselves. They promise to keep the Court open as long as they and their families can make the financial sacrifice asked of them.

I am grateful and indebted to every member of our incredible Court family. Everyone one of them is essential and valued. Although the government shut-down hopefully will end soon and life will return to our “new” reduced normal, I ask members of the bar and their staff who rely on the help of our folks as they process papers and schedule hearings also to say “thank you” for their work. Without them the entire bankruptcy system would collapse.

### **Lee Ann Bennett:**

#### **New President of the National Conference of Bankruptcy Clerks**



The National Conference of Bankruptcy Clerks is a professional organization focused on meeting the needs of the Clerk’s staff in bankruptcy courts across the United States. NCBC focuses its efforts in four areas: Leadership, Education, Advocacy, and Solutions. The group sponsors numerous educational programs, including a national conference, and works tirelessly to improve the work environment for thousands of employees of the bankruptcy courts.

On September 26, 2013, our own Clerk LeeAnn Bennett was selected by her colleagues to serve as President of NCBC for a term ending in 2016. She will represent Bankruptcy Clerks at numerous national forums including the upcoming National Conference of Bankruptcy Judges in Atlanta. NCBC has selected an excellent leader to hold its reins. Congratulations to Clerk Bennett.

## **Introducing the New Executive Director of BLES:**

### **Alvin Fletcher Benton, Esquire, Holland & Knight**



For many years we have witnessed the great *pro bono* work undertaken by our bankruptcy colleagues in the Southern District of Florida. Due to our expansive geography and the fact that the Southern District has only one voluntary bankruptcy bar association compared to our four voluntary bar associations, Florida's Middle District was presented with some unique organizational challenges in trying to improve our *pro bono* and outreach efforts. At a Bankruptcy/UCC Committee Meeting held in conjunction with the Florida Bar in 2012, the Honorable Michael G. Williamson presented his vision of BLES—the Bankruptcy Legal Education Series designed to provide education on bankruptcy topics and assist *pro bono* projects district wide.

Roy Kobert and Gene Crick of Broad and Cassel offered to get the ball rolling and, on December 28, 2012, BLES was incorporated. Tax exempt status is expected in the first quarter of 2014.

In the meantime, the Board of BLES, consisting of representatives from each voluntary bankruptcy bar association, opened a bank account and raised initial donations of approximately \$20,000. Funds came from contributions from the Business Law Section of the Florida Bar, each local bankruptcy bar association, seminar fees, Chapter 11 liquidating trusts, and voluntary individual contributions.

So, BLES was born in 2012. BLES is getting organized in 2013. The BLES Board currently is reviewing projects to fund. By early 2014, BLES should walk independently and serve as the Middle District's funding source for *pro bono* projects.

To reach this goal of sustainability and continuity, the rotating Directors quickly realized BLES needed an ongoing Executive Director. Alvin Benton, a graduate of FAMU and an attorney at Holland & Knight, graciously agreed to accept the position as BLES' first Executive Director. Mr. Benton is also treasurer of the Paul Perkins Bar Association and is presently participating in the new Florida Bar Leadership Program. In his spare time, Alvin chairs the H&K Diversity Committee all while waiting for his wife to give birth to their first child. While BLES has gone through the birthing and growing pains, Alvin will experience it in real life as well. He will make an excellent leader for BLES.

## Case Summaries

By: **Bradley M. Saxton, Esquire and C. Andrew Roy, Esquire,  
Winderweede, Ward, Haines & Woodman, P.A.**

***Stevenson v. Uttermohlen (In re Uttermohlen),***

--- Fed. Appx. ----, 2013 WL 4033911 (11th Cir. Aug. 9, 2013)

In Chapter 7 case, Eleventh Circuit affirmed bankruptcy court's ruling that tax refund, to which debtor and debtor's non-debtor spouse were entitled, was exempt from administration by trustee as property in tenancy-by-the-entireties.

***In re McKinnon,***

495 B.R. 553 (Bankr. M.D. Fla. Aug. 27, 2013) (Williamson, J.)

In Chapter 7 case, trustee successfully avoided debtor's pre-petition transfer of his vehicle to his daughter. After transfer was avoided, debtor sought to exempt the vehicle pursuant to section 522(g). The trustee objected to the exemption. Sustaining the trustee's objection, the bankruptcy court found that section 522(g) is disjunctive and thus, since the debtor voluntarily transferred the vehicle, he was not entitled to the exemption even if he did not conceal the transfer.

***Webber v. American Cancer Treatment Centers, Inc. (In re Makar),***

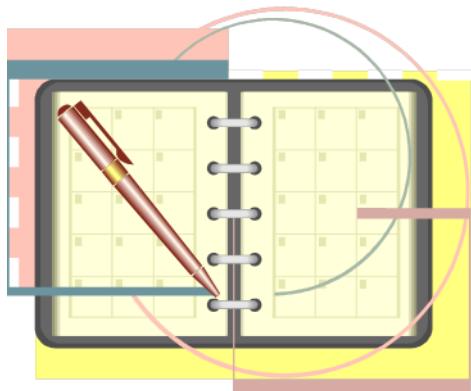
2013 WL 4483462 (Bankr. M.D. Fla. Aug. 15, 2013) (Jennemann, J.)

Chapter 7 trustee sought to avoid multiple transfers pursuant to sections 548 and 550. On trustee's motion for summary judgment, bankruptcy court determined that (i) it had jurisdiction to enter a final order on the avoidance claims pursuant to *Stern v. Marshall*, and (ii) the transfers were avoidable as a matter of law based on the undisputed material facts. Furthermore, the court held that the debtor's businesses were debtor's "alter ego" and allowed the trustee to pierce the corporate veil.

***In re Martin,***

Case No. 8:13-bk-00624-MGW (Bankr. M.D. Fla. Sept. 17, 2013) (Williamson, J.)

In individual Chapter 11 case, debtor attempted to retain property, including three investment homes, while paying unsecured creditors only a 5% distribution. The debtor attempted to cram down the unsecured class, but the bankruptcy court determined that the absolute priority rule prohibited cramdown. Adopting the "narrow view" of the applicability of the absolute priority rule, the bankruptcy court looked to the plain meaning of sections 1129 and 1115. Based on that reasoning, the court denied confirmation of the debtor's proposed plan as it violated the absolute priority.



## SAVE THE DATE

### STATE WIDE SUMMIT

ON

### RESIDENTIAL MORTGAGE MODIFICATION MEDIATIONS

**If you are a mediator, residential mortgage lender, creditor attorney, debtor attorney, Chapter 13 trustee, staff, a Bankruptcy Judge or just interested in the programs developed to help parties modify residential mortgages, you may want to attend a summit to discuss what is working well and why throughout Florida:**

**DATE:** February 27, 2014

**TIME:** 1:00 pm

**LOCATION:** Jury Assembly Room  
United States District Court  
First Floor  
401 West Central Boulevard  
Orlando, Florida 32801

**If you are interested in attending or in helping plan the Summit, please contact Laurie Weatherford at [lauriew@c13orl.com](mailto:lauriew@c13orl.com).**

## “The 3-3-3 Rule”

By: Hon. Michael G. Williamson

“Judge is the 3-3-3 Rule in effect for this case or is this a 10-10-10 case?” Those of you who have appeared in my courtroom may have heard this question asked, or you have probably heard me discuss these rules. But just in case, let me explain: Keep it Short! Few motions need to exceed three pages—thus the first “3” in the Rule stands for 3 pages. That’s the length that works best for most routine motions. Even if it is a really complex matter, try to keep the page count down to 10 pages (get it? 10-10-10). The more succinct your writing the better. Don't drag your motion out to the maximum page limit if you have nothing left to say. In the words of Chief Justice Roberts, "I've yet to put down a brief and say, 'I wish that were longer.'”

The second “3” relates to the maximum number of cases that you should cite for any proposition of law. Simply put: Avoid Excessive Case Citations! If there is a novel legal issue, cite a case or two that supports your position. One or two cases are ordinarily sufficient. Avoid long string cites unless you are trying to make a point. And citation of well-settled law is not helpful. For example, taking two pages to review the standards for summary judgment is a waste of space. These comments apply equally to bigger cases in which the 10-10-10 Rule applies (I know--it should be the 10-3-10 Rule--but that doesn't sound very good so I'm exercising some artistic license on the name of the Rule).

The third “3” applies to the length of your argument on most routine matters. Believe it or not, we bankruptcy judges have probably seen the type of motion that you have filed before (like maybe a 1000 times). So if it's just a motion for relief from stay on a car with no insurance and no payments have been made for four months--we get it. That's all we need to know. Three minutes of oral argument should be more than sufficient. We don't need a primer on the constitutional underpinnings of adequate protection.

While I've got the floor, here are some other practice pointers on oral argument and drafting of motions and memoranda for the court (I know I'm breaking the 3-3-3 Rule by going on at this point, so I'll *sua sponte* invoke the 10-10-10 Rule).

*Preview Relief Sought.* Explain at the beginning of your argument and in the introductory paragraphs of the motion the relief you are seeking before you lay out the factual and legal bases for the relief requested. Let us know what you want at the front end so we know where you're heading and will understand the relevance of the facts you proffer in support.

*Avoid Legalese.* Plain language is easier to understand. As Justice Scalia once said, “A good test is, if you use the word at a cocktail party, will people look at you funny?”

*Avoid Minutiae.* When drafting your motion or making your argument, first ask yourself what the court needs to know, then include that information in the motion or argument. You need to communicate the big picture in a fashion that it can be understood quickly by the reader or listener. Avoid minutiae. For example, a tedious recitation in a motion of every document in the loan file is neither needed nor helpful. In a similar vein, do not cut and paste the identical case history and introductory paragraphs from earlier motions into later ones.

*Never Disparage Your Opponent.* As Justice Ginsburg once said, "You should aim to persuade the judge by the power of your reasoning and not by denigrating the opposing side." Using words such as "outrageous," "disingenuous," and the like reflects poorly on you. If the opposing counsel makes disparaging remarks about you or your client avoid responding in kind. Keep the high road!

**The “3-3-3” Rule (continued):**

*Be Intellectually Honest.* If you have weaknesses in your position, “pull the teeth” by addressing them in your motion or up front in your oral argument explaining that while you concede that these weaknesses exist, they should not compel a different result. Similarly, address your opponent’s best argument in your motion.

*Provide Copies of Cases.* Many judges welcome the filing of cases that will be relied on at the hearing so long as the cases are furnished to opposing counsel. Depending on a judge’s practice, it is often useful to highlight the portions of the cases that you will be relying upon. Include those highlights in the cases you provide to opposing counsel.

*File Your Memo of Law Well Before Hearing.* When you do file briefs or cases, they are of very little use to the court unless they are filed in a timely manner so as to allow sufficient opportunity for their review in advance of the hearing (delivery to chambers at the end of business hours on the eve of a hearing or on the day of the hearing is not timely). You should assume that the judge will rule from the bench, and briefs or cases filed at or immediately before the hearing will not be reviewed prior to the court’s making its ruling.

(You’ll note that I covered exactly 10 points in compliance with my 10-10-10 Rule.) See you in court.

## *Dear* POINT AND CLICK:

Dear Point and Click:

**Q:** I am trying to file a document and there does not appear to be a corresponding event in CM/ECF. The Clerk’s Office is closed so I cannot call for assistance but the deadline to file the document is today. Is there a way I can determine if there is an event in CM/ECF that I should be using to file my document?

**A:** Yes, it is possible to search the CM/ECF system for specific events. Additionally, since the use of the correct event in CM/ECF is critical to ensuring the appropriate deadlines are scheduled and hearings set, you are encouraged to search the system prior to filing any document that appears not to have a corresponding event. To perform the search:

1. Log into CM/ECF as if filing a document.
2. Select Search from the main menu. A Search Menus and Events box displays.
3. Enter a keyword from the title of the document you are filing in the text box. **Note:** Enter a unique word from the title of the document. For example, if you are filing a Motion for Sanctions, enter Sanctions (rather than Motion) in the text box to receive a list of events containing Sanctions in the title.
4. Click the magnifying glass to the right of the text box to begin the search.
5. The list of matching CM/ECF events displays. From this list of events, you can select the event you want to use by clicking the hyperlink.

## Positive Additions to Negative Notice List

By: Hon. Caryl E. Delano

Middle District practitioners are very familiar with Local Rule 2002-1. This rule provides that specified types of motions, objections and other papers will be considered by the Court without an actual hearing if the negative notice procedure described in the rule is followed and if no party in interest objects to the relief requested. The negative notice procedure eliminates the need for a hearing in most unopposed matters, saving time and money for parties, attorneys and the Court. Of course, even in the absence of an objection, the Court may set a hearing to consider the requested relief.

Effective July 1, 2013, L.R. 2002-1 was amended to delete its reference to the specific types of motions approved for the negative notice procedure and to refer parties to the Negative Notice List posted on the Court's website. Over the past year, the judges have approved a number of additions to the Negative Notice List. These additions are the result of suggestions from members of the bar, Clerk's Office staff, and the judges. CM/ECF users are notified of updates to the Negative Notice List by email blast and announcements on the Court's website.

Recent additions to the Negative Notice List include:

### Chapter 7

- Motion by Chapter 7 Trustee to Authorize Interim Distribution to Creditors and to Pay Administrative Expenses
- Motion Objecting to Discharge pursuant to Rule 4004(a)

### Chapter 11

- Application for Final Compensation (must be accompanied by the Chapter 11 Fee Application Cover Page available on the Court's website, [www.flmb.uscourts.gov/forms](http://www.flmb.uscourts.gov/forms).)
- Motion to Determine Secured Status/Value Property in Chapter 11's (30 day notice)
- Motion to Determine Secured Status/Strip Lien on Real Property in Chapter 11's (30 day notice)

### Chapter 12 and Chapter 13

- Motion for Relief from Stay as to the Debtor
- Motion for Relief from Co-Debtor Stay (14 day notice)
- Motion to Confirm Priority of Modified Mortgage

Also, with respect to motions for relief from stay, accompanying affidavits or verifications are no longer required although movants may submit them if they would like to establish standing or other factual issues. If a motion for relief from stay is not supported by an affidavit or verification, the Court will make no determination on whether the movant has standing to request the relief sought by the motion or whether the debtor is delinquent on any obligation. And, in Orlando and Tampa, if the Chapter 13 Plan surrenders collateral or payments are made outside the plan, neither a hearing nor negative notice is required if the motion is accompanied by an affidavit to that effect.



**UNITED STATES BANKRUPTCY COURT,  
MIDDLE DISTRICT OF FLORIDA  
PERMISSIVE USE OF NEGATIVE NOTICE**

**Revision effective October 15, 2013**

The Court permits and encourages service of the following papers using negative notice as permitted by Local Rule 2002-4. The negative notice legend shall provide for a 21-day objection period unless stated otherwise below.

**Chapter 7**

Application for Payment of Administrative Expenses (Interim)
Motion by Chapter 7 Trustee to Authorize Interim Distribution to Creditors and to Pay Administrative Expenses
Motion for Relief from Stay
Motion for Order Confirming that the Automatic Stay is Terminated (362(c) and (j))
Motion Objecting to Discharge pursuant to Rule 4004(a)
Motion to Approve Agreements Relating to Relief from Stay, Prohibiting or Conditioning the Use, Sale or Lease of Property, Providing Adequate Protection, Use of Cash Collateral and Obtaining Credit pursuant to Fed. R. Bankr. P. 4001(d) ( <b>14-day notice</b> )
Motion/Notice of Intent to Abandon Property filed by Trustee ( <b>14-day notice</b> , pursuant to Fed. R. Bankr. P. 6007)
Motion to Compel Abandonment
Motion to Approve Compromise or Settlement
Motion to Avoid Lien on Exempt Property
Motion to Assume Lease/Executory Contract
Motion to Confirm Priority of Modified Mortgage
Motion to Determine Property is of Consequential Value to Estate filed by Trustee (362(h)(2))
Motion to Determine Secured Status /Value Property ( <b>30-day notice required</b> )
Motion to Determine Secured Status/Strip Lien on Real Property ( <b>30-day notice required</b> )
Motion to Dismiss for Failure to Attend 341 Meeting filed by Trustee
Motion to Redeem
Motion/Notice to Sell or Lease Property (does not apply to sales free and clear of interests)
Motion for Turnover of Property by Trustee ( <b>30-day notice required</b> )
Objection to Claim ( <b>30-day notice required</b> )
Objection to Exemptions (However, in Tampa, Orlando, and Ft. Myers the Court will enter an order sustaining an objection that relates <b>solely</b> to the value of personal property claimed exempt without a hearing)

**Revised Negative Notice List (continued):****Chapter 11**

Application for Interim Compensation (must be accompanied by the Chapter 11 Fee Application Cover Page available on the Court's website, <a href="http://www.flmb.uscourts.gov/forms">www.flmb.uscourts.gov/forms</a> .)
Application for Final Compensation (must be accompanied by the Chapter 11 Fee Application Cover Page available on the Court's website, <a href="http://www.flmb.uscourts.gov/forms">www.flmb.uscourts.gov/forms</a> .)
Motion to Approve Agreements Relating to Relief from Stay, Prohibiting or Conditioning the Use, Sale or Lease of Property, Providing Adequate Protection, Use of Cash Collateral and Obtaining Credit pursuant to Fed. R. Bankr. P. 4001(d) <b>(14-day notice)</b>
Motion to Avoid Lien on Exempt Property
Motion to Approve Compromise or Settlement
Motion to Administratively Close Individual Chapter 11 Case
Objection to Claim <b>(30-day notice required)</b>
Motion to Determine Secured Status /Value Property <b>(30-day notice required)</b>
Motion to Determine Secured Status/Strip Lien on Real Property <b>(30-day notice required)</b>

**Chapter 12 and Chapter 13**

Application for Quantum Meruit Compensation by Chapter 7 Trustee or Trustee's Attorney
*Motion for Relief from Stay as to the Debtor
*Motion for Relief from Co-Debtor Stay <b>(14-day notice)</b>
Motion for Order Confirming that the Automatic Stay is Terminated (362(c) and (j))
Motion Objecting to Discharge pursuant to Rule 4004(a)
Motion to Approve Agreements Relating to Relief from Stay, Prohibiting or Conditioning the Use, Sale or Lease of Property
Motion to Avoid Lien on Exempt Property
Motion to Approve Compromise or Settlement
Motion to Assume Lease/Executory Contract
Motion to Confirm Priority of Modified Mortgage
Motion to Determine Secured Status /Value Property <b>(30-day notice required)</b>
Motion to Determine Secured Status/Strip Lien on Real Property <b>(30-day notice required)</b>
Motion to Dismiss for Failure to Attend 341 Meeting filed by Trustee
Motion to Modify Confirmed Plan (Except in Tampa and Ft. Myers)
Motion to Modify Mortgage
Motion to Offset Funds Filed by Trustee
Motion for Turnover of Property by Trustee <b>(30-day notice required)</b>
Motion to Sell or Lease Property (does not apply to sales free and clear of interests)
Objection to Claim <b>(30-day notice required)</b>

\*\*In Orlando and Tampa, if the Chapter 13 Plan surrenders collateral or payments are made outside the Plan, neither a hearing nor negative notice is required if the motion is accompanied by an affidavit to that effect.

## Bankruptcy Rules and Forms effective December 1, 2013

By: Kathy Deetz, Deputy-in-Charge

A number of rule and form changes are scheduled to take effect of December 1, 2013.

### Rules 1007, 5009, 4004

Rule 1007(b)(7) now allows an approved provider to notify the court directly that the debtor has completed the personal financial management course.

Rule 5009(b) would require the clerk to send a notice only if the course provider has not already notified the court of the debtor's completion of the course and the debtor has failed to file the statement in 45 days after the 341 meeting of creditors.

Rule 4004(c)(1)(H) is amended to provide that the court must delay entering a discharge for a debtor who has not filed certification of completion of the personal financial management course, only if the debtor was required to do so.

### Rules 9006, 9013, and 9014

Rule 9006(d) prescribes time limits for the service of written motions and responses. The proposed amendments expand the coverage of subdivision (d) to address the timing of the service of any written response to a motion.

Rule 9013, which addresses the form and service of motions, is amended to provide a cross-reference to the time periods in Rule 9006(d). The amendment also calls greater attention to the default deadlines for motion practice.

Rule 9014, which addresses contested matters in bankruptcy, is similarly amended to provide a cross-reference to the times under Rule 9006(d) for serving motions and responses.

### Bankruptcy Forms 3A, 3B, 6I, 6J, 6 Summary, 23 and 27

#### Official Forms

3A, Application for Individuals to Pay the Filing Fee in Installments,

3B, Application for Waiver of Chapter 7 Filing Fee,

6I, Schedule I: Current Income of Individual Debtor(s),

6J, Schedule J: Current Expenditures of Individual Debtor(s)

The forms were selected for the initial implementation phase of the Forms Modernization Project, as they make no significant change in substantive content and simply replace existing forms.

Official Forms 6 Summary, Summary of Schedules, and 27, Reaffirmation Cover Sheet, are revised with updated line number cross references to Schedules I and J.

Official Form 23, Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management, is revised to reflect the change to Rule 1007(b)

Please use the link below regarding the amendments to official forms occurring 12/1/2013.

[http://www.flmb.uscourts.gov/forms/december\\_1\\_2013.htm](http://www.flmb.uscourts.gov/forms/december_1_2013.htm)

**Delaying Payment of Filing Fees in CM/ECF**  
**By: Raymond Waguespack, Operations Deputy**

When papers are filed in CM/ECF using an event that incurs a fee, the fees, in most instances, is due upon filing of the paper. During the month of August, 2013, there were nearly 300 instances of delayed payment of fees that were incurred by filing papers in CM/ECF on cases where no request for installment payment or for in forma pauperis was submitted.

The effect of the delayed payment of fees is that court staff must generate a notice regarding the unpaid fee costing the Court additional noticing cost and staff time generating the notice. Also, if fees remain unpaid after 5 days, automated email reminders are sent to the CM/ECF user and continue to be sent until the fee is paid.

To assist the Court in reducing its noticing costs and using staff time to generate notices on unpaid fees, CM/ECF users are requested to make a habit of paying filing fees in CM/ECF on the date the fees are incurred to the extent possible. An additional benefit of paying fees quickly is to keep you email inbox free of overdue filing fee emails. Together we can keep our cost down and make our district more efficient.

**Requirement to File Declarations of Electronic Filing Removed from Local Rules**  
**By: Raymond Waguespack, Operations Deputy**

Despite the change in requirement, nearly 2300 Declarations of Electronic Filing were filed during the month of August, 2013. We wish to alert members of the bar that in July of this year, updated Local Rule 9011-4 went into effect which removed the requirement to file Declarations of Electronic Filing. Accordingly, the Court has recently updated its website to remove the Declaration of Electronic Filing form and will be reviewing our external website and training Electronic Learning Modules to locate any places where updates are necessary as a result of this change in requirement. Please note the requirement in Local Rule 1001-2(c) to retain certain original signed papers for 4 years after the case is closed has not changed.

The July 2013 edition of *The Court Connection* included a review of the Local Rule Amendments that were effective July 1, 2013 and a complete copy of the current Local Rules are available on the Court's website.

## Taping of Court Events and Training Presentations

By: Mike Shadburn, Chief Deputy

Ever missed a training presentation and wished you could view it later on a video? A process has been developed where general events and training presentations, including those given at brown bag luncheons, can be taped and then made available for viewing on the Court's website. Kristyn Leederkerken, a career law clerk for Judge Glenn, has been designated as the overall coordinator for the program. In order to have a presentation taped, the deputy-in-charge of the division in which the presentation is to be given should be contacted.

For taping in the Tampa Division, contact Chuck Kilcoyne at 813-301-5037, in the Jacksonville Division, contact Gull Weaver at 904-301-6500, and in the Orlando Division, contact Kathy Deetz at 407-237-8055. These deputies, through an automated system, schedule the presentations for taping by the IT staff.

The following information is needed for scheduling:

- Title of Presentation/Program
- City/Division Location
- Location of Presentation/Program
- Date of Presentation/Program
- Start Time of Presentation/Program
- Duration of Presentation/Program
- Is this a CLE credit event?
- Special instructions/comments

Following the taping, a video of the presentation is added to the Court's website at <https://pacer.flmb.uscourts.gov/cle/index.asp> for external viewing, which requires a user to enter their CM/ECF login. Court staff can view applicable presentations at <http://flmb.circ11.dcn/videos/>.

### Bill of Rights Read-Along Day December 15, 2013

Celebrate the document that created our system of governance and has withstood the test of time. You can download a copy of the U.S. Constitution from the National Archives website ([www.archives.gov](http://www.archives.gov)).

Too long? Download a copy of the Bill of Rights. The "Refrigerator Door Bill of Rights" (so called because it can be posted on your refrigerator) is available at [www.National-Education-Project.org](http://www.National-Education-Project.org). And on December 22nd (a Sunday), the 222nd birthday of the Bill of Rights, there will be a live read-along of the Bill of Rights from 8:30-9 p.m. (log on to the National Education Project website from your home at that time).

Be a part of this nationwide celebration!

*"When it comes to life the critical thing is whether you take things for granted or take them with gratitude."*

*- Gilbert K. Chesterton*

## American Bankruptcy Institute's Standards of Professional Courtesy and Conduct (Bankruptcy Court Decisions, September 20, 2013, Volume 58, Issue 9, Pages 8-9)

ABI Executive Director Samuel J. Gerdano said, "The Task Force report is grounded in the belief that civility by an attorney or another bankruptcy professional is not a sign of weakness, but rather an obligation."

The principles are broken out into the following categories:

### **General Duties of Professionals:**

1. Professionals should be courteous and civil in all professional dealings with others.
2. When not conflicting with their clients' interests, professionals should cooperate with other professionals in an effort to avoid unnecessary litigation and to resolve litigation that already has commenced.
3. Professionals should respect the schedules and commitments of others, consistent with the protection of their clients' interests.
4. A professional should return telephone calls promptly and respond to communications that reasonably require a response, with due consideration of time zone differences and other known circumstances affecting availability.
5. The time and manner of the servicing of papers should not be designed to cause disadvantage or embarrassment to the party receiving the papers.
6. A professional should not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or for the purpose of unnecessarily prolonging litigation or increasing litigation expenses.
7. In out-of-court proceedings, professionals should not engage in any conduct that would not be appropriate in the presence of a judge.
8. A professional should keep his or her word.
9. A professional should not mislead others involved in the bankruptcy process.

### **General Duties of Lawyers:**

1. Lawyers should be respectful of the schedules and commitments of others.
2. In examinations and other proceedings, as well as in meetings and negotiations, professionals should conduct themselves with dignity and refrain from displaying rudeness and disrespect.
3. Lawyers should not mislead others involved in the bankruptcy process.

### **Lawyers' Duties to the Court and Court Personnel:**

1. A lawyer is both an officer of the court and an advocate. As such a lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court and its personnel.
2. Court personnel are an integral part of the justice system and should be treated with courtesy and respect at all times.

### **Duties of Judges and Court Personnel to Lawyers, Parties and Witnesses:**

1. A judge should be patient, courteous and civil to lawyers, parties and witnesses.
2. Court personnel should be courteous, patient and respectful while providing prompt, efficient and helpful service to all persons having business with the courts.

These principles do not form a basis for litigation sanctions or penalties. Rather, ABI intends that members of the bankruptcy profession voluntarily agree to adhere to these principles so as to improve the profession and the administration of justice for all of its participants.

The ABI Civility Task Force Report on Standards of Professional Courtesy and Conduct is available at:

[http://go.abi.org/Civility\\_Report](http://go.abi.org/Civility_Report)

## View from the Bench-- Registration Deadlines Approaching!

Remember to register for the Bankruptcy Law & Practice: View from the Bench seminar -- November 7th in Tampa or November 8th in Miami! Please do not rely on on-site registration as seating is limited. **Note also that there is a surcharge for on-site registration.**


Members of The Florida Bar can register on-line at [www.flabar.org](http://www.flabar.org). To register, you will need to:

1. Log in using your bar number and password
2. Click on the "CLE" link on the top menu
3. Under "Upcoming Live Courses," click on "Search Calendar/Register Online"
4. Type in the city name (Tampa or Miami)
5. Select Bankruptcy Law & Practice: View from the Bench 2013 (Course Number-1637R).

In addition, don't forget to sign up for the receptions and dinner the evenings before the presentations!

For registration information about the Tampa Reception on the evening of Wednesday, November 6, 2013, go to [www.tbbba.com](http://www.tbbba.com) and click on the link under "Events."

To register for the Miami Reception and Dinner on the evening of Thursday, November 7, 2013, go to the website for The Bankruptcy Bar Association for the Southern District of Florida: <http://www.bbasdfi.org/>. Under "Upcoming Events..." select: "View from the Bench 2013-Judges Dinner and Seminar."




The Florida Bar Continuing Legal Education Committee and  
the Business Law Section present

### BANKRUPTCY LAW & PRACTICE: VIEW FROM THE BENCH 2013

COURSE CLASSIFICATION: INTERMEDIATE LEVEL

**TWO LIVE PRESENTATIONS:**  
Thursday, November 7, 2013 – Tampa • Renaissance Tampa International Plaza Hotel •  
4200 Jim Walter Blvd. (813) 877-9200  
Friday, November 8, 2013 – Miami • Hyatt Regency • 400 SE Second Ave. • (305) 358-1234  
Course No. 1637R



8:00 a.m. – 8:25 a.m. <b>Registration</b>	8:30 a.m. – 9:15 a.m. <b>Practice Pointers: A Judicial Perspective</b>	10:30 a.m. – 11:15 a.m. <b>Consumer Issues - Part II</b>
8:25 a.m. – 8:30 a.m. <b>Opening Remarks</b> Hon. Michael G. Williamson	9:15 a.m. – 10:15 a.m. <b>Consumer Issues - Part I</b>	11:15 a.m. – 12:30 p.m. <b>Chapter 11 Issues</b>
10:15 a.m. – 10:30 a.m. <b>Break</b>		

**JUDICIAL PANEL**

**TAMPA PANEL**

Honorable Karen S. Jennemann  
Chief Bankruptcy Judge  
U.S. Bankruptcy Court, Orlando

Honorable Paul G. Hyman  
Chief Bankruptcy Judge  
U.S. Bankruptcy Court, West Palm Beach

Honorable Karen K. Specie  
Chief Bankruptcy Judge  
U.S. Bankruptcy Court, Tallahassee

Honorable Paul M. Glenn  
Bankruptcy Judge  
U.S. Bankruptcy Court, Jacksonville

Honorable Michael G. Williamson  
Bankruptcy Judge  
U.S. Bankruptcy Court, Tampa

Honorable K. Rodney May  
Bankruptcy Judge  
U.S. Bankruptcy Court, Tampa

Honorable Catharina Peek McEwen  
Bankruptcy Judge  
U.S. Bankruptcy Court, Tampa

Honorable Caryl E. Delano  
Bankruptcy Judge  
U.S. Bankruptcy Court, Fort Myers

Honorable Cynthia C. Jackson  
Bankruptcy Judge  
U.S. Bankruptcy Court, Orlando

**STEERING COMMITTEE**

Roberta A. Colton  
Moderator

Hon. Michael G. Williamson  
Program Chair

Paul Steven Singerman  
Standing Member

Stephen D. Busey  
Standing Member

Stephanie Biernacki Anthony  
Tampa Bay Bankruptcy Bar Association

Daniel N. Gonzalez  
The Bankruptcy Bar Association of  
the Southern District of Florida

Stephanie Czana Lieb  
Bankruptcy/UCC Comm.-TBBBA Liaison

Lisa M. Schiller  
Bankruptcy/UCC Comm.-BBASDFL Liaison

Bradley M. Saxton  
Editor, Course Materials

Stephen E. Nagin  
Business Law Section Chair

**MIAMI PANEL**

Honorable Paul G. Hyman  
Chief Bankruptcy Judge  
U.S. Bankruptcy Court, West Palm Beach

Honorable A. Jay Cristol  
Chief Bankruptcy Judge Emeritus  
U.S. Bankruptcy Court, Miami

Honorable Karen S. Jennemann  
Chief Bankruptcy Judge  
U.S. Bankruptcy Court, Orlando

Honorable Karen K. Specie  
Chief Bankruptcy Judge  
U.S. Bankruptcy Court, Tallahassee

Honorable Robert A. Mark  
Bankruptcy Judge  
U.S. Bankruptcy Court, Miami

Honorable Raymond B. Ray  
Bankruptcy Judge  
U.S. Bankruptcy Court, Fort Lauderdale

Honorable John K. Olson  
Bankruptcy Judge  
U.S. Bankruptcy Court, Fort Lauderdale

Honorable Laurel M. Iscoloff  
Bankruptcy Judge  
U.S. Bankruptcy Court, Miami

Honorable Erik P. Kimball  
Bankruptcy Judge  
U.S. Bankruptcy Court, West Palm Beach

Honorable Michael G. Williamson  
Bankruptcy Judge  
U.S. Bankruptcy Court, Tampa

**\*\*RECEPTION\*\***

Registrants of this seminar are invited to attend a reception with the participating judges.

**TAMPA:** The Tampa Bay Bankruptcy Bar Association will host a reception with the judges participating in this program on Wednesday, November 6th at 5:30 p.m. at the University Club, One Tampa City Center, 201 N. Franklin Street, Suite 3800, Tampa. The TBBBA will send registration information to its membership. Non-members of the TBBBA can request registration information from Stephanie Lieb, via email to [slieb@tbbba.com](mailto:slieb@tbbba.com).

**MIAMI:** The Bankruptcy Bar Association of the Southern District of Florida will host a reception with the participating judges on Thursday, November 7th at 5:30 p.m. at Joe's Stone Crab Restaurant, 11 Washington Avenue, Miami Beach. Seminar attendees do not need to register separately for the Miami reception. Dinner will follow at 6:30 p.m. at Joe's, and registration for dinner is required. The BBASDFL will provide registration information for the dinner. Please visit [www.bbasdfi.org](http://www.bbasdfi.org) or email [laura@bbasdfi.org](mailto:laura@bbasdfi.org) for information.

**TO REGISTER**

**ON-LINE:**  
[www.floridabar.org/CLE](http://www.floridabar.org/CLE)

**MAIL:**  
Completed form with check

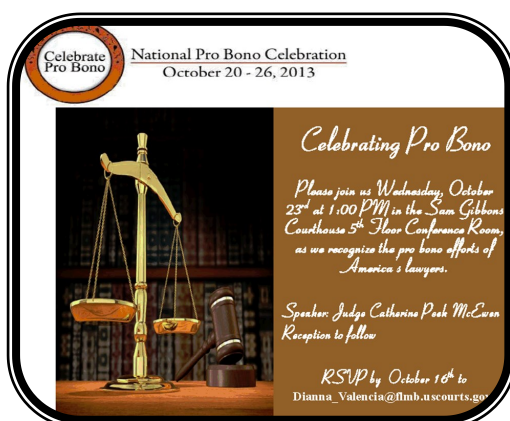
**FAX:**  
Completed form to 850/561-9413

## NATIONAL PRO BONO WEEK OCTOBER 20-26, 2013

**Proclamations:** The Court has reached out to the local city governments in Jacksonville, Orlando, and Tampa to request that each Mayor sign a Proclamation

**Pro Bono Recognition Program and Attorney Receptions:** A Pro Bono Recognition Program led by Judge McEwen will occur on October 23rd from 1:00 p.m. to 2:00 p.m. The program will be live in Tampa and broadcast via video conference in Jacksonville and Orlando. Receptions will immediately follow the presentation in all locations

**Pro Bono Docket Event:** The Court has created a new docketing event to note when there is a Pro Bono attorney assisting in a Pro-Se case. The CM/ECF docketing event will go "Live" to coincide with Pro Bono week and will be announced through an email blast to all registered CM/ECF users.



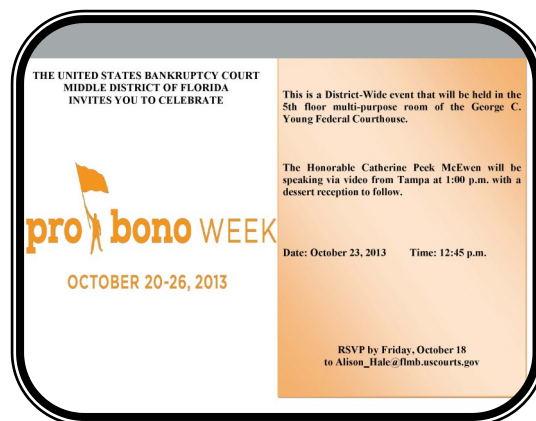
**Celebrate Pro Bono** National Pro Bono Celebration  
October 20 - 26, 2013

*Celebrating Pro Bono*

Please join us Wednesday, October 23<sup>rd</sup> at 1:00 PM in the Sam Gibbons Courthouse 5<sup>th</sup> Floor Conference Room, as we recognize the pro bono efforts of America's lawyers.

Speaker: Judge Catherine Peck McEwen  
Reception to follow

RSVP by October 18<sup>th</sup> to  
Dianna\_Valencia@flmb.uscourts.gov



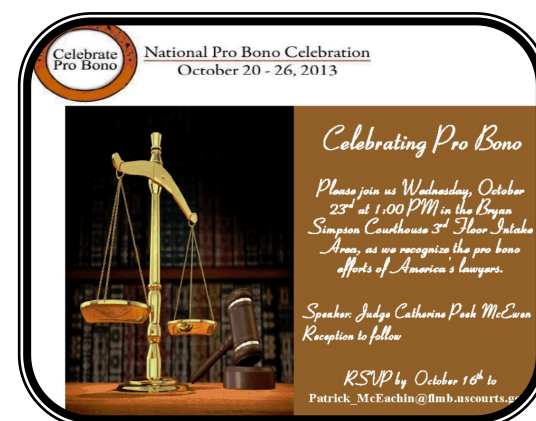
THE UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
INVITES YOU TO CELEBRATE

This is a District-Wide event that will be held in the 5th floor multi-purpose room of the George C. Young Federal Courthouse.

The Honorable Catherine Peck McEwen will be speaking via video from Tampa at 1:00 p.m. with a dessert reception to follow.

Date: October 23, 2013 Time: 12:45 p.m.

RSVP by Friday, October 18  
to Alison\_Hale@flmb.uscourts.gov



**Celebrate Pro Bono** National Pro Bono Celebration  
October 20 - 26, 2013

*Celebrating Pro Bono*

Please join us Wednesday, October 23<sup>rd</sup> at 1:00 PM in the Bryan Simpson Courthouse 3<sup>rd</sup> Floor Intake Area, as we recognize the pro bono efforts of America's lawyers.

Speaker: Judge Catherine Peck McEwen  
Reception to follow

RSVP by October 18<sup>th</sup> to  
Patrick\_McEachin@flmb.uscourts.gov



## Chapter 13 Debtor Education Class

By: Kathy Deetz, Deputy-in-Charge (ORL)

Laurie K. Weatherford, Chapter 13 Trustee for the Middle District of Florida, offers the Debtor Education Class to all her Chapter 13 Debtors, free of charge. The classes are conveniently held on the day of the debtor(s) 341 Meetings, so debtors will not have to take an additional day off of work. Classes are held every Thursday from 11:30 a.m. - 1:30 p.m. at the George C. Young Federal Building, 400 W. Washington St., Courtroom 6C, Orlando, Florida.



The instructors, Vera Pennington and Stephen Wood, have combined qualifications of 31 years experience in counseling. Both instructors have BS degrees in education, including financial planning experience, 22 years as a realtor and over 7 years experience in teaching Debtor Education Course.

Steve Wood, Mortgage Program Manager, oversees all the Chapter 13 Mortgage Modification Mediation Programs. He does a wonderful job of explaining the process of mortgage modification and HAMP programs. He informs debtors that they may be eligible for assistance in the form of a loan modification, forgiveness of principal, short sale, waiver of deficiency in loan balance or other relief. Currently, the Chapter 13 mortgage modification mediations have a 70% success rate.

Vera Pennington is amazing to watch. She connects with each person in the room by sharing details of her own personal experiences. It's clear to see why the debtors respond in such a positive manner to her teaching style. She presents an informative, laid back program, in a stress free environment with a touch of humor. Key topics such as savings and goal planning, budgeting, financial decision making, negotiating and credit are discussed.



Vera has many reasons for teaching this class: debtors fulfilling their requirement of a Debtor Education course, the Court receiving the necessary documents for case administration and educating debtors to make wise financial decisions for the start of their new beginning.

# SAVE THE DATE

## **ATTORNEYS AND PARALEGALS**

### **JOIN THE COURT FOR OUR NEXT BROWN-BAG LUNCHEON**

#### **DATE & TIME:**

November 15, 2013  
12:00 NOON TO 1:00 PM

#### **PLACE:**

**UNITED STATES DISTRICT COURT**  
JURY ASSEMBLY ROOM – FIRST FLOOR  
401 W. CENTRAL BOULEVARD  
ORLANDO, FLORIDA

#### **TOPIC:**

**“Chapter 13 Made Easy –  
A Discussion of the Proposed National  
Chapter 13 Form Plan and Rule Amendments”**

#### **PRESENTER:**

**Jeanne Kraft, Esquire, Wolff, Hill, McFarlin & Herron, P.A.**

1 HOUR GENERAL C.L.E.R. CREDIT – CREDIT HAS BEEN APPLIED FOR

**NOTE:** Nature’s Table will no longer provide lunches, so please bring your lunch and join us for the quarterly Brown Bag Luncheon.

## Court Committee Updates

### IT COMMITTEE

**By: Scott Lumpkins**

Well, although it was a slower month for us, the IT Testing Committee did work on a very important and essential program...The Aqua Program, the new quality assurance program for Court staff. At the end of August and beginning of September, the IT Committee Members did Live Testing of the Aqua Program before its release to the entire staff. During the testing, we utilized the Aqua E-Request to find and correct any issues we might have had with the program. Corrections and additions were made which resulted in a smoother transition when going live with the entire staff.

Also, an e-Request was made which resulted in changes to two Notice of Hearing events, the IT Testing Committee tested the changes and found no issues, therefore, the changes were implemented.

### OUTREACH COMMITTEE

**By: Dianna Valencia**

The Outreach Committee successfully completed an ice-breaker for the District Off-Site in August of this year. Since then the Committee has been busy with preparation and kick-off of this year's Combined Federal Campaign (CFC) which began District-Wide on October 2, 2013 and runs through December 4, 2013. During that time, staff in each division will conduct fund raisers as part of the campaign. Additionally, the Committee is involved with planning the National Pro Bono Celebration activities within the District which include a reception to be held on October 23, 2013 in the Tampa, Orlando, and Jacksonville Divisions for attorneys who have provided pro bono assistance on bankruptcy matters.

### PROCEDURES COMMITTEE II

**By: Anel Merritt**

Our Committee has completed a draft procedure for Objections to Exemptions. We provided several suggestions for efficiencies and uniformity across the District. The draft procedure has been submitted to the Procedures Review Committee. Our Committee will now begin work on procedures for Motions to Assume or Reject Executory Contracts.

### PROCEDURES COMMITTEE III

**By: Mary Henry**

Since our last update the Procedures Committee #3 lost one of its members. Work on our assignments will resume this month. We expect to submit our finalized chapter 13 discharge procedures proposal, and then continue work on chapter 13 hardship discharges.

**Court Committee Updates (continued):****PROCEDURES REVIEW COMMITTEE UPDATE****By: Susan Carter**

Since our last update, the Procedure Review Committee has completed and returned their review of procedures for Chapter 13 Electronic Case Opening and Motions to Avoid Lien. We are currently working on an internal project regarding deadlines in the Court's new AQUA work distribution system. Next we will begin discussion of the Objection to Debtor's Claim of Exemptions.

**TRAINING COMMITTEE****By: Ann Iannarelli**

The Training committee is focusing on implementing training topics outlined in our Strategic Training Plan.

We had the opportunity to offer many of these topics at our District Offsite in August.

Communication Skills: *Collaborative Communication in the Workplace*

Computer Security: *Computer Security Awareness*

Leadership: *Leadership and Deception*

Morale Building: *Ladies and Gentlemen, Start Your Brains!*

Bankruptcy Series: *What Does That Chapter 13 Trustee Do?* and *US Trustee – A Piece of the Bankruptcy Puzzle.*

In September, members of our court staff presented two internally developed programs designed to aid our operations staff.

AQUA: An enhanced QC editor and case management work distribution system that organizes the daily duties and allocates the work.

Helpdesk: A program that incorporates numerous tutorials and FAQs to promote customer service. The self-help system is designed for electronic filers to obtain answers to their questions without assistance from court staff and allows court staff a tool to use to send answers when an external filer is unable to locate their answer.

**WEBSITE COMMITTEE****Celia Rodenmeyer and Sarah Wiener**

Recently, the Website Committee created and posted a survey regarding the Court's external website. The purpose was to seek beneficial input from our users. To publicize the survey, an email blast was sent to all ECF registered attorney users and a message was placed in CM/ECF. Numerous positive comments were received on the overall quality and ease of use of our current website, as well as many helpful suggestions for improvement. Those suggestions will be incorporated into our future website and our current one. Thank you again for taking the time to take our survey!

**Court Committee Updates (continued):**

Below is a small sampling of questions from the survey and the responses received:

1. Information of the U.S. Bankruptcy Court's website is easy to locate?

Always 45% Sometimes 50% Rarely 4.9%

2. Do you or your staff routinely check the U.S. Bankruptcy Court's website for information

Always 76.8% Sometimes 19.7% Rarely 3.5%

3. How often do you or your staff visit the U.S. Bankruptcy Court's News and Announcements page?

Always 14.1% Sometimes 58.5% Rarely 27.5%

4. Are you or your staff aware that if CM/ECF is unavailable or an issue arises within CM/ECF, information regarding "down time/offline/unavailable" will be posted under News and Announcements on the Court's website?

Yes 66.9% No 33.1%

5. Are you or your office aware that the Court's website contains the following links?

Telephonic Appearance

Yes 64.8% No 35.2%

Frequently Asked Questions

Yes 96.4% No 3.6%

Requirements to file a Chapter 7, 11 or 13 Case

Yes 90.8% No 9.2%

Phone list for all divisions

Yes 93.6% No 6.4%

CLE Attorney Credits

Yes 44.6% No 55.4%

Online e-Training Registration Form and Access to Training Modules (to Obtain an ECF Login)

Yes 84.1% No 15.9%

In addition, a "Sneak Peak" of the revamped website was afforded in two of the break-out sessions at the District Offsite in August. These sessions were facilitated by Richard Arendt and Sarah Wiener, with the help of the website committee. The attendees were pleased with the sessions and appreciated the new look of the website and easier set up to access information.

Stay tuned as we prepare for the future presentation of our new website.

## Securing Your Mobile Device

By: Richard Arendt, Assistant Systems Manager

Smart phones and tablets are convenient and easy to use. They also introduce risk to personal privacy.

Just a few years ago, a mobile device was considered just a phone that only made and received calls. The only security concern was whether someone might steal your phone. Today, mobile devices behave just like your office computer.

Mobile devices can store large amounts of data, are highly portable and are frequently unprotected. They are easy to steal or lose, and unless precautions are taken, an unauthorized person can gain access to the information stored on them. Even if not stolen or lost, intruders can sometimes gain all the access they need if the device is left alone and unprotected, if data is "sniffed out of the air" during wireless communications, or if malware is installed. The results can include crippled devices and personal data loss .

Here are some practices to consider for a more secured mobile device:

- Connect to only secure Wi-Fi networks and disable the mobile device when not in use.
- Turn off Bluetooth when not being used.
- Configure mobile devices securely.
- Use a password protected screen lock on all the devices.
- Enable the mobile tracking feature found on mobile phones.

Users should take steps in protecting their mobile devices.




## Working With Congress

### By: Hon. Catherine P. McEwen

The Tampa and Fort Myers Divisions participated in a Congressional Relations Reception on September 18, 2013. Members of the staffs of Senators Nelson and Rubio and our local House members turned out either live or via video to hear from District, Bankruptcy, and Magistrate Judges of each division as well as the District Court's Clerk of the Court, the U.S. Marshal for our region, the Federal Public Defender, representatives of U.S Probation and U.S. Pretrial Services, and the United States Attorney. The speakers highlighted the damaging impact on the Third Branch of our government — the federal judicial system — of sequestration and the need for Congress to fund an adequate and consistent budget for this co-equal branch. The judicial system is currently funded at two-tenths of one penny of every tax dollar (that's \$0.002). Local attorneys practicing in each division attended the event to show support for increased funding. The handout generated by our Bankruptcy Court for the event can be found on the Court's website.


The Court thanks the Tampa Bay Bankruptcy Bar Association and the Federal Bar Association's Tampa Bay Chapter for sponsoring the lunch in Tampa and thanks the Bench Bar Fund (funded by attorney admission fees) for underwriting the lunch in Fort Myers.

Please use this information distributed at the recent luncheon to understand and to spread the dire nature of our financial plight.



## United States Bankruptcy Court

### Middle District of Florida



Congressional Relations Reception/Tampa-Ft. Myers-Ocala
September 18, 2013

**Rank by # of Cases**  
The Middle District of Florida's Bankruptcy Court is the **THIRD** busiest *in the nation* (out of 90 federal judicial districts).

**Case-Weighted Rank**  
The Middle District of Florida's Bankruptcy Judges are the **SECOND** busiest *in the nation*. We need four more judges. See p. 4.

**Pro Se Filings**  
The Middle District of Florida's Bankruptcy Court is **SECOND** *in the nation* in the number of *pro se* filers. See p. 4.

## Sequestration affecting quality, quantity of justice

**Courthouse closing at 5 p.m. and staffing cuts harm litigants, cost them time and money to complete their cases**

The Federal Rules of Bankruptcy Procedure exist to "secure the just, speedy, and inexpensive determination of every case and proceeding." F.R.B.P. 1001. Yet staffing cuts and the 5 p.m. courthouse closing deadline render us unable to deliver on that promise to the public. Here are a few examples:

### Heritage Plaza Case

The Chapter 11 confirmation hearing began on May 31, 2013, and went until 5 p.m. The lender's expert, up from Miami, was not able to testify because of the time constraints. The trial was continued to another day; the expert came back then. The lender thus bore the expense of the expert's travel twice. Because of the inability to proceed past 5 p.m. again on the continuation day, the parties were not able to make their closing arguments. Closing arguments were held the following day. Two days later, thirteen days from the start of trial, the Court announced its ruling. The per diem accrual of interest on the loan was clicking away at \$1,567 per day during this time. Accordingly, the delay of 13 days in completing the trial because of time constraints cost the debtor an additional \$20,300+ in interest.



**We're focused on cost cutting and efficiencies but yet must maintain basic service to the public**

The Bankruptcy Court in the Middle District of Florida is doing what we can by sharing administrative services and resources with other courts, implementing procedures to minimize steps in case processing, and reducing noticing and service costs.

**Congressional Handout (continued):****More examples of expense incurred or justice delayed . . .****Gold Properties Case - Part I**

When one party's out-of-town expert was on the stand, the 5 p.m. courthouse closing deadline neared, so we had to break for several days right in the middle of her testimony, before cross-exam started. This allowed the opposing party time to get the expert's direct testimony typed up, potentially giving that party an advantage with additional preparation time. The expert had to come back on the continuation day, incurring travel costs for a second day. We easily could have finished by 6-6:30 p.m. on the first day.

**Gold Properties Case - Part II**

We had to call a halt again at 5 p.m. on the continuation day after the parties had rested and before closing arguments. This harmed one of the litigants because its lead trial counsel was set to be sworn in as a state judge the following week, before we could find open time to schedule the closing arguments.

**Reaffirmation hearings delayed**

Debtors who wish to reaffirm debts are scheduled for hearing at 4 p.m. in one judge's courtroom so that they do not have to take off too much time from work. Before sequestration, we routinely had hearings after 5 p.m. to get through them all. Now we must limit the number of debtors we can handle from 4-5 p.m. The effect on the debtors is that the progress of their cases is delayed, and they do not know if they should keep paying the lender or look for a substitute for the collateral at issue.

**Traumatic Brain Education Adult Community Home Cases**

This is a set of related, large Chapter 11 cases involving several lawyers from New York, Boston, and Birmingham. Due to the inability to go past 5 p.m., several hearings had to be continued to a different day and, therefore, these lawyers and their clients will have to incur the time and expense in coming back to Tampa for the continued hearings. Counsel for the debtor's principal stated, "I am confident that all of the hearings could have been completed if we were able to go to 6 or 6:30 pm."

**Pro Se Drain on Court and Staff Time**

Many of our consumer debtors are not represented by a lawyer. Their filings are harder to decipher and require more handling by our case managers, who are stretched as it is due to layoffs, slowing down the handling of all other filings. Also, unrepresented parties consume a disproportionate amount of court time, which is at a premium given the 5 p.m. closing deadline, thereby impeding our ability to serve as many as timely as we were before sequestration.



## Congressional Handout (continued):

## We are doing as much as possible with as few employees as possible; additional cuts would be disastrous to the Court and the public.

The Middle District of Florida's Bankruptcy Court has four busy divisions. Indeed, our Court is the **second busiest in the nation** in terms of case-weighted caseloads per judge (**third in number of filings**).

### In 1988 . . .

Our Court's **Tampa/Fort Myers Divisions** had **30 employees** and 8,015 total bankruptcy case filings. We opened the courthouse on Saturdays and even some Sundays to ensure timely hearings!

### Today . . . 25 years and double the cases later

Now, nearly 25 years later, the **Tampa/Fort Myers Divisions** have just **30.5 employees**, and these divisions are on a pace to handle more than double their 1988 filings, with 11,998 bankruptcy cases filed this year through August 31, 2013.

Yes, certainly automation has improved our efficiency, but **we have reduced our staff district-wide by 34.47 percent in less than two years**. Here's how we did it: In anticipation of the reduction in authorized work units and salary allotment, we began reducing all divisions' staff in fiscal year 2012. In June, 2012, the Court had 124 employees which we reduced to 103.5 by the beginning of June, 2013 (**through attrition, buyouts, and involuntary layoffs**). We continued on our path of downsizing during fiscal year 2013. By August 2013, we had lost an additional 11.5 employees for a total loss of 32 employees.

## Middle District of Florida facts

- ☑ 10 million of Florida's 18 million people reside in the Middle District.
- ☑ 35 of Florida's 67 counties are within the Middle District.
- ☑ The **foreclosure rate** in Florida in 2012 was the highest in the country. It's still **first in the nation** as of July 2013.
- ☑ **Six of the top ten metropolitan foreclosure rates in the nation belong to areas within the Middle District, as of July 2013** (1-Jacksonville, 4-Ocala, 5-Palm Bay/Melbourne/Titusville, 7-Tampa Bay, 8-Orlando/Kissimmee, 10-Sarasota/Bradenton/Venice).
- ☑ The **case managers** for the Tampa and Fort Myers Divisions are responsible for almost **2,000 bankruptcy cases and adversary proceedings each**.

## By the numbers:

As of August 31, 2013, the United States Bankruptcy Court for the Middle District of Florida had **64,626** pending bankruptcy cases and another **2,386** pending adversary proceedings.

Congressional Handout (continued):

United States Bankruptcy Court Middle District of Florida Pro Se Bankruptcy Cases Filed			
	FY 2011	FY 2012	FY 2013*
<b>Fort Myers Division</b>			
Pro Se Bankruptcy Case Filed	279	319	232
Bankruptcy Cases Filed	6091	4441	3269
Percentage of Pro Se Filings	4.58%	7.18%	7.10%
<b>Jacksonville Division</b>			
Pro Se Bankruptcy Case Filed	1037	873	795
Bankruptcy Cases Filed	9918	8675	7280
Percentage of Pro Se Filings	10.46%	10.06%	10.92%
<b>Orlando Division</b>			
Pro Se Bankruptcy Case Filed	2488	2705	3029
Bankruptcy Cases Filed	20755	18355	15247
Percentage of Pro Se Filings	11.99%	14.74%	19.87%
<b>Tampa Division</b>			
Pro Se Bankruptcy Case Filed	2163	1845	1710
Bankruptcy Cases Filed	20268	16071	13407
Percentage of Pro Se Filings	10.67%	11.48%	12.76%
<b>Total District</b>			
Pro Se Bankruptcy Case Filed	5967	5742	5766
Bankruptcy Cases Filed	57032	47542	39198
Percentage of Pro Se Filings	10.46%	12.08%	14.71%

\* Fiscal Year 2013 to Date October 1, 2012 through August 31, 2013

**Ranking by case-weighted bankruptcy caseloads**

1. Eastern Michigan, 2,501 per judge
2. **Middle Florida, 2,239 per judge**
3. Delaware, 2,222 per judge
4. Eastern Missouri, 1,979 per judge
5. Northern Mississippi, 1,950 per judge

**2,239** = Middle District of Florida's Bankruptcy Court's weighted filings per judge  
**1,500** = weighted filings per judge needed for one authorized judgeship  
**1,225** = national average weighted filings per judge

More by the numbers:

This fiscal year our Court has had 5,766 pro se filings, which puts us 2nd in the nation.

\*\*\*

Our case-weighted filings per judge are 2nd in the nation and more than 1,000 above the national average. Those numbers mean that we should be authorized four more judges to serve the public efficiently.



## NEWS FROM THE TAMPA BAY BANKRUPTCY BAR ASSOCIATION

Because We  care

**By: Megan W. Murray, Esquire, Trenam Kemker Attorneys**

This month at the Tampa Bay Bankruptcy Bar Association luncheon, Brad deBeaubien of Shumaker, Loop & Kendrick, LLP, reminded us how sharing our knowledge of bankruptcy and financial management can create long lasting impacts in the community. Mr. deBeaubien serves as the chair for the TBBBA for an organization known as C.A.R.E., the Credit Abuse Resistance Education Program.

Founded in 2002 by John C. Ninfo II, the now-retired U.S. Bankruptcy Judge for the Western District of New York, C.A.R.E. seeks to educate high school and college students on the responsible use of credit, which of course includes an education on the consequences of poor money management and credit card abuse. The goal of the C.A.R.E. program is to train young men and women to intelligently manage their credit cards and credit-card debt and to prevent them from experiencing the inside of a bankruptcy court. The course educates students on the roles of credit in today's society, how to choose a credit card, the differences between debit and credit cards, other features of a card (rate, fees, grace periods, revolving balances, rewards, etc.), how credit reports work, and the consequences of credit abuse.

A bankruptcy judge is a predictable forefather of the program. Judge Ninfo was fatigued by the ever present appearances of debtors to his courtroom whose bankruptcies stemmed from financial woes due to the misuse of credit cards and poor financial planning, and in 2002 he decided to take action. Now entering its eleventh year, C.A.R.E. volunteers work with individuals in all 50 states and the District of Columbia.

Our own Honorable Judge Catherine Peek McEwen has been a long-time supporter of the program, and now sits on the national C.A.R.E. Judicial Advisory Board. She has been instrumental in developing and strengthening the program in Tampa Bay Area. All the Judges in the Middle District fully support the program, including Honorable K. Rodney May who touted the program's benefits in an interview with local Channel 8 News back in 2008 during a C.A.R.E. presentation given to University of Tampa students by the local bankruptcy judges and members of the Tampa Bay Bankruptcy Bar Association. The video can be viewed on Judge May's court website, or by clicking on the TV below.





## NEWS FROM THE TAMPA BAY BANKRUPTCY BAR ASSOCIATION

### We Care (continued):

Tampa Bay attorney, Brad deBeaubien, works diligently to keep TBBBA active in the C.A.R.E. program, and is currently recruiting Bay Area bankruptcy attorneys to give a C.A.R.E. presentation at the Adult & Career Center in Tampa in the near future. This is one of many alternative venues benefitting from C.A.R.E. efforts. Churches, outreach groups, teen centers, volunteer centers, and youth volunteer programs (such as the Eagle Scouts), also present great opportunities to educate our youth on the importance of financial literacy and credit responsibility. If you are interested in learning more about C.A.R.E., you can visit the website at <http://care4yourfuture.org/>.

You should contact your local C.A.R.E. representative if you have suggestions on new audiences or are interested in presenting in your area. No experience needed!

### Tampa:

H. S. "Brad" deBeaubien  
Shumaker, Loop & Kendrick, LLP  
bdebeaubien@slk-law.com  
813.221.7425

## NEWS FROM THE SOUTHWEST FLORIDA BANKRUPTCY PROFESSIONALS ASSOCIATION



Richard Johnston Jr. of the law firm of Johnston Champeau, LLC was awarded the 2013 Alexander L. Paskay Professionalism Award at the Southwest Florida Bankruptcy Professionals Association annual dinner on September 19, 2013. Mr. Johnston was a graduate of the University of Florida in 1982 and practiced law in Tallahassee and Boca Raton before settling in Fort Myers to practice law approximately twenty years ago.

The criteria for the award includes outstanding effectiveness and presentation of matters to the Bankruptcy Court, reputation for thorough preparation, civility and courtesy to opposing counsel, appropriate courtroom demeanor, ethical conduct and professionalism at the highest level and long term service to the bankruptcy bar. Mr. Johnston was both a past president of the Southwest Florida Bankruptcy Professionals Association and a frequent presenter of programs to the Association. In addition, he was acknowledged for his courteous and ethical conduct, preparedness and pro bono service.

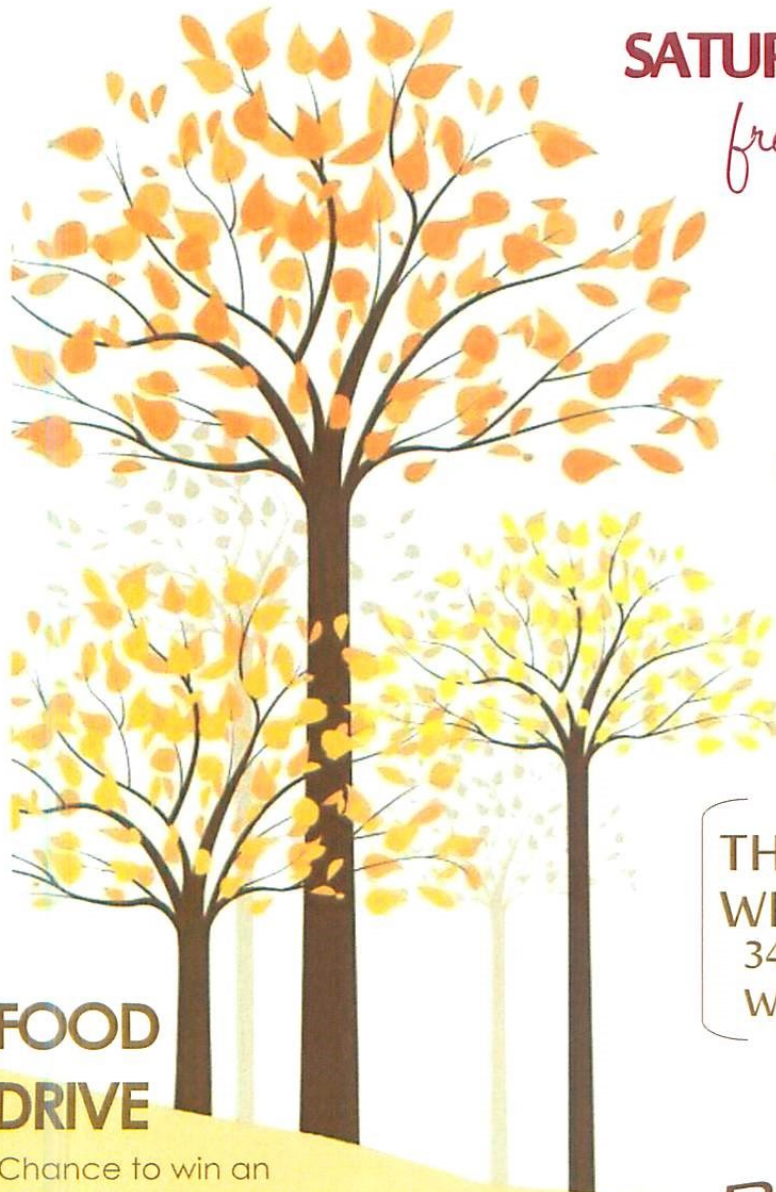
NEWS FROM THE CENTRAL FLORIDA BANKRUPTCY LAW ASSOCIATION

*Central Florida Bankruptcy Law Association's*

# fall festival

Fun for the Entire Family

**SATURDAY, NOV. 16<sup>TH</sup>**  
*from* **11AM – 3PM**



inflatables  
**FREE FOOD**  
games & prizes  
rock climbing wall  
hay stack treasure dig  
beer & wine  
**LIVE MUSIC**  
face painting  
family photos  
obstacle course

**THE PINES at  
WINDERMERE PARK**  
3409 Maguire Road  
Windermere 34786

## FOOD DRIVE

Chance to win an iPad Mini with every donation! See reverse side for more details.

**RSVP** by Oct. 31st  
kbcumbaker@gmail.com



# Judges' Corner



*Photographs from the Investiture Ceremony & Reception  
of the  
Honorable Cynthia C. Jackson  
United States Bankruptcy Judge  
June 21, 2013*





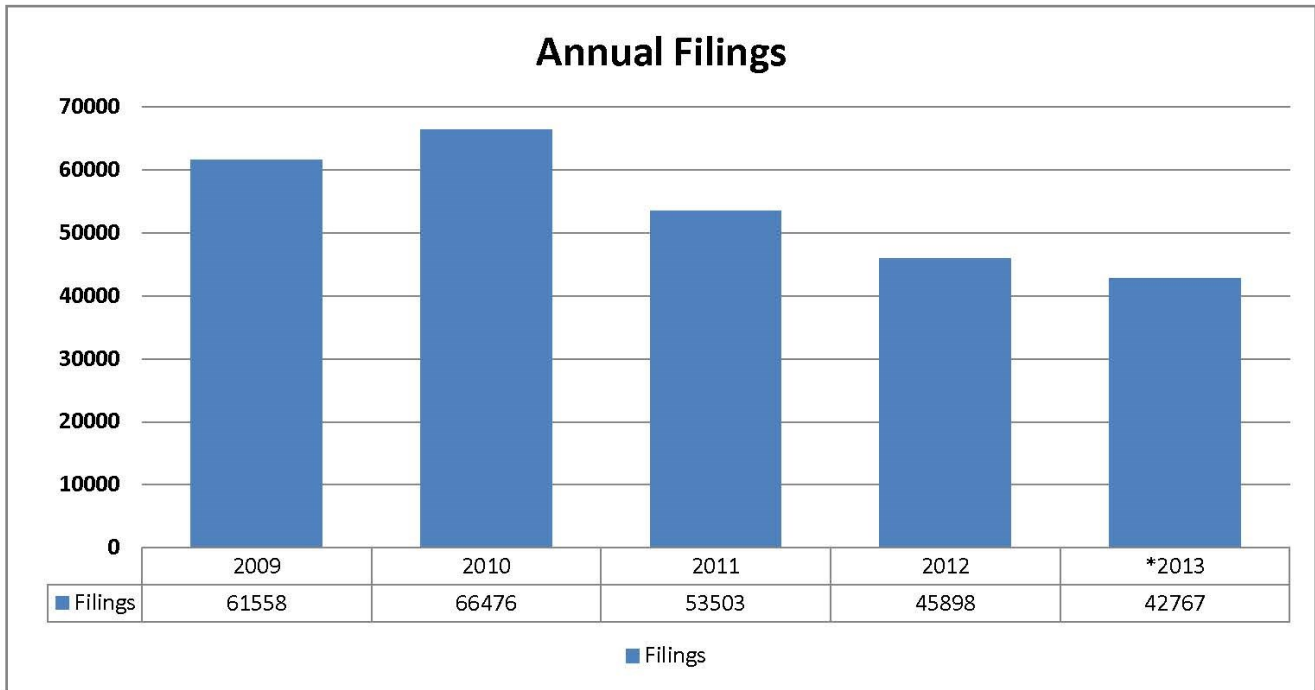
# Judges' Corner



*Photographs from the Investiture Ceremony & Reception  
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June 21, 2013*

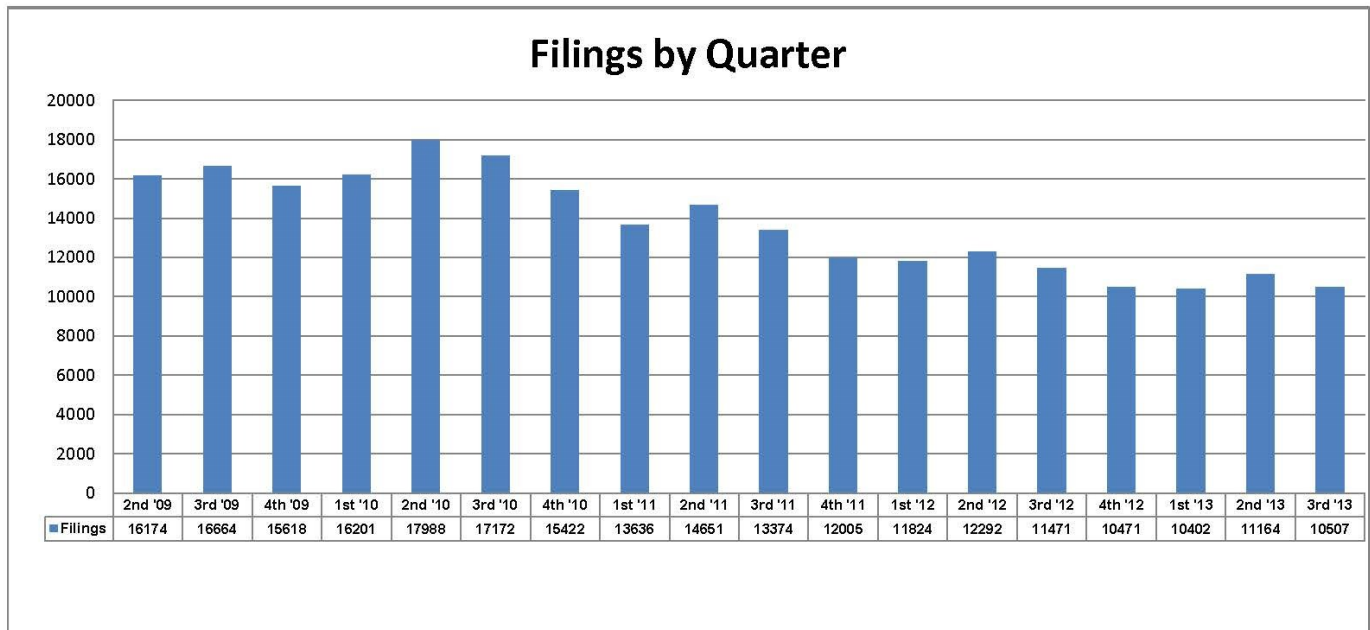


United States Bankruptcy Court - Middle District of Florida  
 Updated October 9, 2013 Meeting Data and Information  
 Statistics as of September 30, 2013



Year	Annual Filings	vs. 2009	vs. Prior Yr.
2009	61558		
2010	66476	8%	8%
2011	53503	-13%	-20%
2012	45898	-25%	-14%
*2013	42767	-31%	-7%

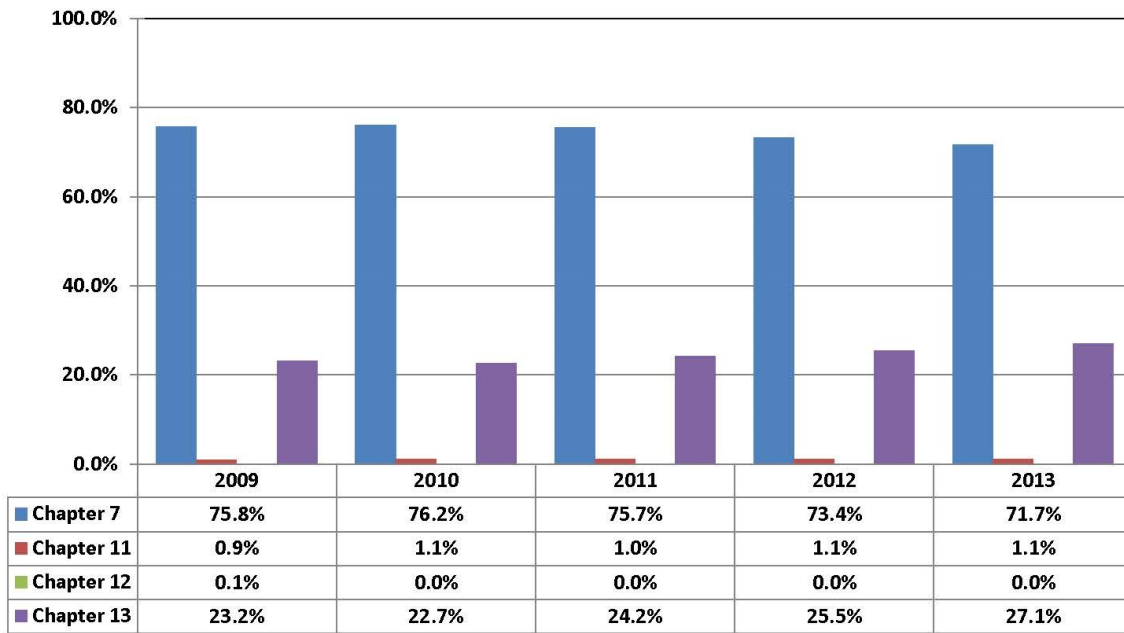
\* Projected Filings



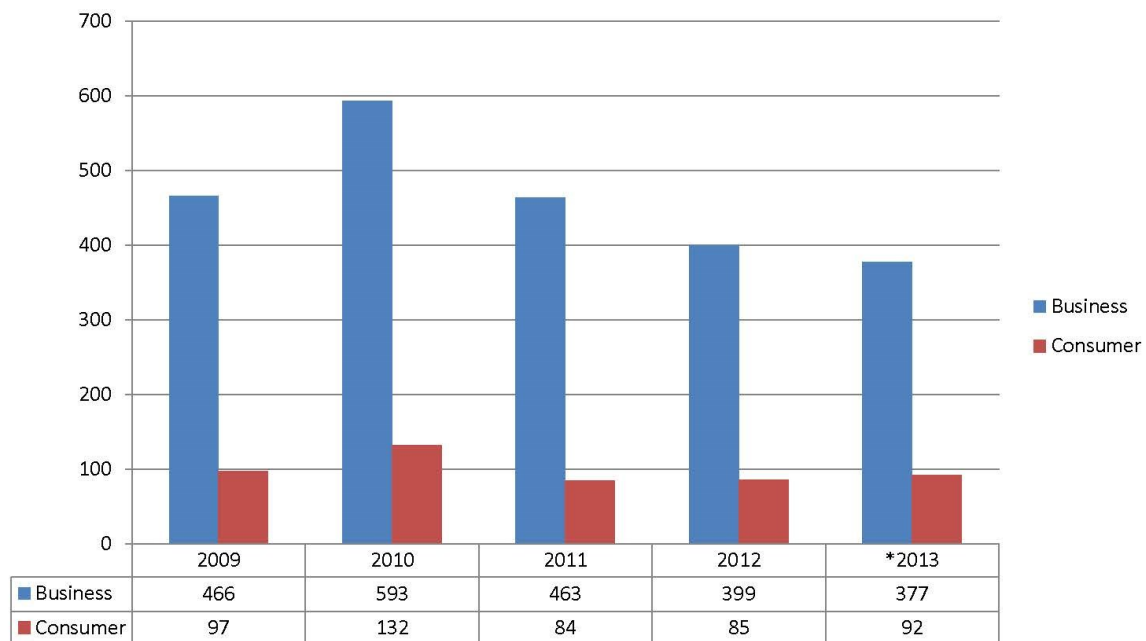


**QUARTERLY STATISTICS AS OF SEPTEMBER 30, 2013, FOR THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF FLORIDA**

**Filings by % of Chapter Type**

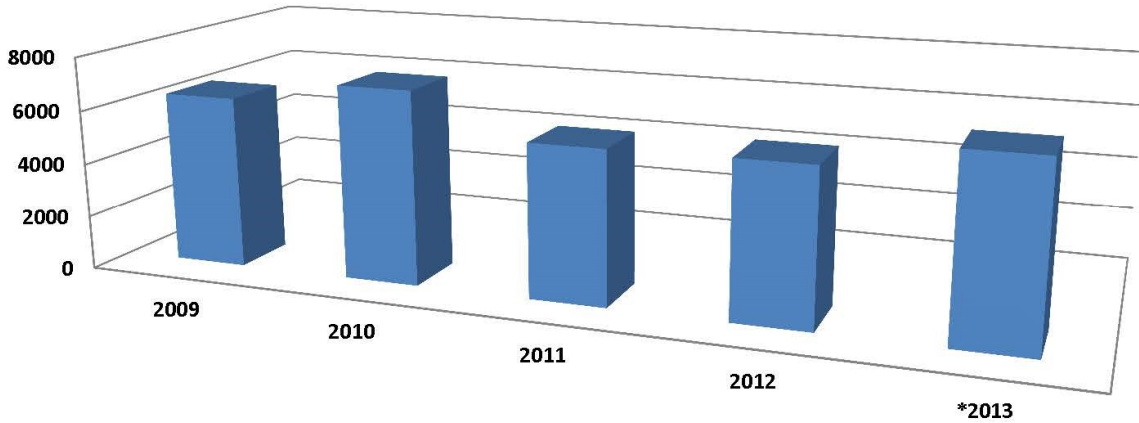


**Chapter 11 Filings**



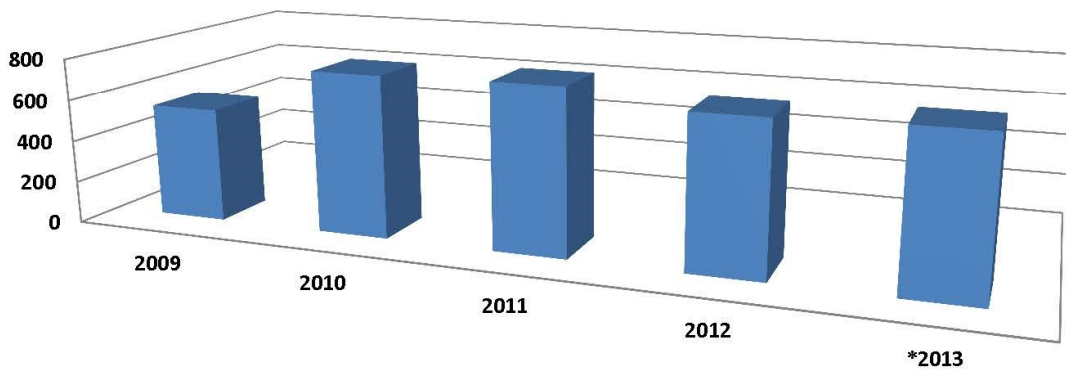
**QUARTERLY STATISTICS AS OF SEPTEMBER 30, 2013, FOR THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF FLORIDA**

**Pro Se Filings**



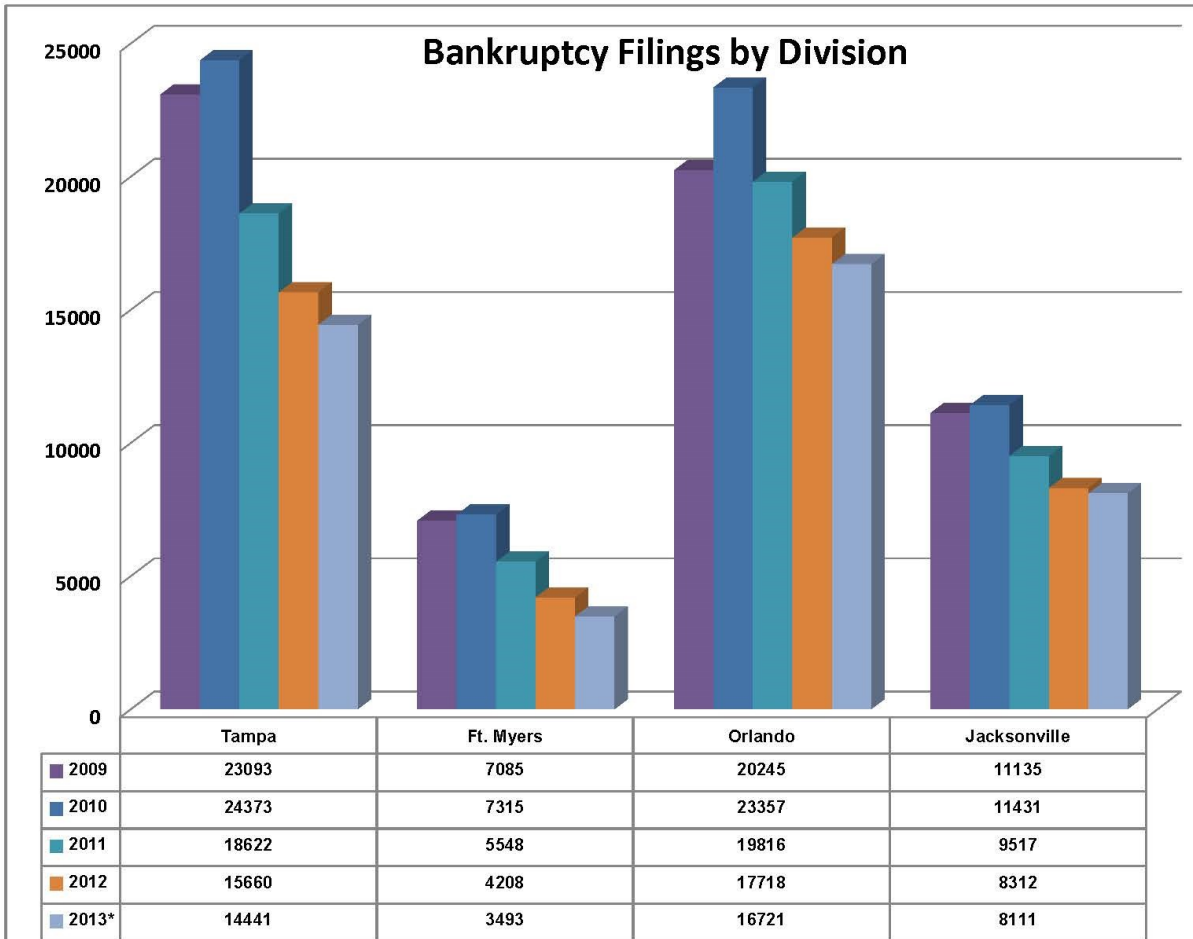
	2009	2010	2011	2012	*2013
■ Pro Se	6413	7201	5682	5737	6628
% of All Filings	10%	11%	11%	12%	15%

**In Forma Pauperis Filings**

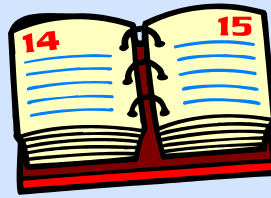


	2009	2010	2011	2012	*2013
■ IFP Granted	544	771	781	711	724
% of All Filings	1%	1%	1%	2%	2%

**QUARTERLY STATISTICS AS OF SEPTEMBER 30, 2013, FOR THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF FLORIDA**



Note: Previous quarterly reports incorrectly reflected total cases filed by including adversary proceedings. Chapter 11 and Pro se filings chart counts have been corrected due to a programming error.

**\*\*\*HAPPENINGS AROUND THE MIDDLE DISTRICT\*\*\*****FT. MYERS**

January 23 @ noon State of the District Presentation by Chief Judge Jennemann

**JACKSONVILLE**

January 8 @ noon State of the District Presentation by Chief Judge Jennemann

**ORLANDO**

October 17 @ noon CFBLA Monthly Luncheon @ GrayRobinson  
 October 23 @ 12:45 p.m. Pro Bono Week Celebration (400 West Washington Street, Fifth Floor Multi-Purpose Room)  
 October 25 @ noon OCBA Bankruptcy Committee Monthly Meeting @ OCBA  
 November 16 @ 11:00 am CFBLA Family Fall Festival (The Pines at Windermere Park)  
 November 21 @ noon CFBLA Monthly Luncheon @ GrayRobinson  
 December 4 @ noon CFBLA Court Appreciation Luncheon (Ember Restaurant)  
 December 5 @ 5:30 pm CFBLA Holiday Party (Orlando Science Center)  
 December 13 @ noon OCBA Bankruptcy Committee Monthly Meeting @ OCBA  
 December 19 @ noon CFBLA Luncheon and Board Elections @ GrayRobinson  
 January 16 @ noon State of the District Presentation by Chief Judge Jennemann

**TAMPA**

November 6 @ 2:00 pm 2nd Annual Bench Bar Conference  
 November 19 @ noon TBBBA Luncheon  
 November 20 @ noon Judge Mentoring Program @ USBC 5th Floor Training Room (Topic TBA)  
 January 14 @ noon TBBBA Luncheon  
 February 11 @ noon State of the District Presentation by Chief Judge Jennemann  
 March 11 @ noon TBBBA Luncheon  
 April 15 @ noon TBBBA Luncheon  
 May 13 @ noon TBBBA Luncheon

**OTHER****IMPORTANT DATES**

October 29-November 2 NCBJ Annual Meeting  
 November 6 View from the Bench Cocktail Reception at the University Club, Tampa, FL  
 November 7 View from the Bench Seminar at Tampa, FL  
 November 8 View from the Bench Seminar at Miami, FL  
 February 27 Statewide Residential Mortgage Modification Mediation Summit  
 March 13-15, 2014 ABI/Stetson Seminar—Tampa, FL  
 May 16, 2014 CFBLA Seminar at Embassy Suites, Orlando, FL  
 June 24-28, 2014 Florida Bar Annual Meeting, Orlando, FL

**United States  
Bankruptcy Court**

400 West Washington Street  
Suite 5100  
Orlando, FL 32801

Phone: 407--237-8000  
Fax: 407-237-8005



**The Court Connection is  
published quarterly  
on:**

**January 15**  
**April 15**  
**July 15**  
**October 15**

**Please submit news, photos, and  
articles by January 1, April 1,  
July 1, and October 1 to:**

**Kim Osment**

(kimosment@flmb.uscourts.gov; 407.237.8111)

**[** [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov) **]**