



The Tampa Bay Bankruptcy Bar Association
presents

April Madness

April 2, 2013



“Tip off” by Catherine Peek McEwen

First Half

- Meet the New Ray Zacek: Introducing IRS Revenue Officer Eric Martinez.
- Contact information for various IRS offices will be provided.

Second Half

- “Three-Pointers” on various procedural issues in adversary proceedings.

First Half: Meet the New Ray Zacek

- Eric Martinez
- Internal Revenue Service Revenue Officer
- What does he do?
- What bankruptcy issues does he become involved in?
- And he's from the government, so how can he help you?



Second Half: Three-pointers on Initial Pleadings

- Plead only one claim in a count.
- Indicate consent (or not) to bankruptcy court's both trying and entering final judgment. *See* Fed. R. B. P. 7008(a).
- Summons: Serve it right. *See* Fed. R. B. P. 7004(c), (e)-(j).

Second Half: Three-pointers on Motions for Default Judgments

- Servicemembers' Civil Relief Act (non-military) Certificate. *See* www.defense.gov/faq/pis/pc09sldr.html.
- What must be supported by affidavit, other admissible evidence. *See* Fed. R. Civ. P. 55(b)(1).
- Affidavits by “custodians” (hearsay exception for records of a regularly conducted business activity). *See, e.g., Fisher v. Page*, 2002 WL 31749262 (N.D. Ill. 2002).

Second Half: Three-pointers on Discovery

- Fed. R. Civ. P. 26(f) conference – have one!
- Responses to requests must meet requirements of rules. *See, e.g.*, Fed. R. Civ. P. 36(a)(4).
- Preserve objections to documents identified in pretrial list (not preliminary list). *See* Fed. R. Civ. P. 26(a)(3)(B).

Second Half: Three-pointers on Motions for Summary Judgment

- Authentication certifications: *See* F.R.E. 902(11).
- Timing for responses: Compare Fed. R. Civ. P. 56 with Fed. R. B. P. 9006(d).
- If you fall short, consider playing the Fed. R. Civ. P. 56(d),(e) cards.

Second Half: Three-Pointers on Final Judgments

- Separate judgment doctrine.
- Interest rates – use correct source pre- and post-judgment.
- Fed. R. Civ. P. Form 71 with tweaks: “Let execution issue forthwith” and compliance with Fla. Stat. §55.01(2) (debtor’s address *and* SSN?).

Second Half: Three-pointers on Judgment Lien Perfection

- Get certified copy from the Clerk.
- Record in public records (which ones?).
- File Judgment Lien Certificate with Fla. Dept. of State, Division of Corporations (www.sunbiz.org). See Fla. Stat. §55.203(1)(a)-(g).

Second Half: Three-Pointers on Miscellaneous Issues

- Pay attention to whether court approval is required for amendments to pleadings. *See* Fed. R. Civ. P. 15(a)(1),(2).
- Voluntary and agreed dismissals: No court order is necessary if done right. *See* Fed. R. Civ. P. 41(a)(1)(A). *But see* Fed. R. B. P. 7041 re objections to discharge (court order required).
- Stipulations for dismissal must have actual signatures. *See* LBR 9011-4(f).