

FROM AROUND THE DISTRICT

On January 21, 2016, the District and Bankruptcy Courts in the Middle District of Florida celebrated “Fifty Years of Justice: A History of the U.S. District Court for the Middle District of Florida.” Hosted by the Orlando Chapter of the Federal Bar Association and the Central Florida Bankruptcy Law Association, the program featured a number of excellent speakers and panelists, including prominent bankruptcy attorney, Jules S. Cohen, who spoke on the history of the Middle District Bankruptcy Court. Mr. Cohen’s presentation was very well received and is reproduced below.

A Brief History of the Middle District Bankruptcy Court

By Jules S. Cohen, Esq., Akerman, LLP

The United States District Court for the Middle District of Florida is celebrating its 50th anniversary as a District. The Bankruptcy Court has always been a part of the Middle District for those 50 years.

Fifty years ago we had a Bankruptcy Court but we did not have any Bankruptcy Judges. We had bankruptcy referees. The referees were appointed by the District Judges and were called referees because the District Court referred bankruptcy cases to them which were filed in the District. More than 50 years ago, referees were often part-time positions held by attorneys who also conducted their own private law practices. They sometimes conducted bankruptcy court in their private law offices.

Fifty years ago there were two bankruptcy referees in the Middle District, Judge Alexander L. Paskay in Tampa and Judge Charles Merritt in Jacksonville.

Judge Paskay had an interesting background. He was born in Hungary where he grew up and graduated college and law school. Shortly after he finished law school, Germany invaded Hungary in World War II. The German army conscripted all young Hungarian men, including Judge Paskay, into the German Army. They trained the Hungarian young men and taught them to march but never trusted them enough to give them weapons. They just kept them marching. In the course of the war, they marched all the way from Hungary to France where they were when the war ended. Judge Paskay later said that at the time he thought, “If I ever get out of this thing, I’m never going to walk anywhere again.”

Judge Paskay spoke English, Hungarian, German, Italian, and French. When the Germans abandoned their Hungarian “soldiers”, Judge Paskay continued walking forward until he encountered American troops who hired him as a translator.

He eventually immigrated to Miami. He applied for admission to The Florida Bar. The Bar responded by telling him they could not read his law diploma from Hungary because it was in Latin. He took the diploma to a Catholic priest who translated it to English. Judge Paskay sent the English translation to The Florida Bar which decided it would not accept the law degree from Hungary.

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Judge Paskay then enrolled in the University of Miami Law School, graduated, and became a law clerk to District Judge Joseph Lieb in Miami. When the Middle District was created, Judge Lieb transferred to Tampa taking Judge Paskay with him as his law clerk. When the Tampa bankruptcy referee retired in 1963, Judge Lieb, as District Judge, appointed Judge Paskay as the bankruptcy referee.

Judge Paskay had his office and the clerk's office in Tampa, but also handled Orlando bankruptcy cases since Orlando had no bankruptcy referee. There was no bankruptcy clerk's office in Orlando. Judge Paskay would come to Orlando about two days every two weeks to preside over Orlando cases. He would bring with him two briefcases bulging with the court files for the Orlando cases set for hearing. He had no clerk, no courtroom deputy, no judicial assistant. He would open his briefcases, put the stack of files on the bench, call the first case and proceed to conduct court.

Judge Paskay retained his heavy Hungarian accent throughout his life. This was an advantage to those of us who practiced before him regularly and learned to understand his accent. I recall one hearing I had before Judge Paskay. My opposing counsel did not come to bankruptcy court often. We made our arguments. Judge Paskay made his ruling and explained his reasons for the ruling. After the hearing, as I started down the hall, opposing counsel grabbed my sleeve and said to me, "What did he say?"

Judge Paskay went on to become a prolific publisher of opinions, an author of books on bankruptcy law, a professor at Stetson Law School, and a nationally recognized authority on bankruptcy law.

Fifty years ago the District Court in Orlando was located in the post office building in downtown Orlando. The bankruptcy court was in a large hearing room across the hall from the District Court courtroom. As the years passed, the number of bankruptcy cases increased to the point where Judge Merritt from Jacksonville began coming to Orlando to take half of the Orlando cases. Judge Merritt could be somewhat whimsical. At one time he was questioning a debtor in court and learned that the debtor was originally from France. At that point Judge Merritt began speaking to the debtor in French, and the debtor responded in French. The court reporter stopped taking down the proceedings because, unfortunately, she did not speak French.

As the years passed, some large companies filed Chapter 11 reorganization proceedings including some companies that were publicly owned. Important issues of commercial law were being litigated in the bankruptcy courts.

In 1975, Judge Merritt resigned and Judge George L. Proctor was appointed as a referee in Jacksonville and was also to handle the Orlando cases. Judge Proctor claimed that before he was selected as referee, no one told him that he would be handling Orlando cases. On his first day in office his secretary said to him, "Should I make you a hotel reservation in Orlando?" He said, "Why would I want to go to Orlando?" It was at that point that his secretary told him that he would be going to Orlando every other week to preside over Bankruptcy Court there.

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As a young man Judge Proctor was in the Marines and went on to the beach in the Normandy invasion on D-Day in World War II. He sometimes wondered why he survived that terrible battle when so many of his comrades did not. Although he didn't like traveling or staying in motels or eating out or being away from his wife, for 12 years, like a good Marine, he did his duty and came to Orlando every other week to be the Bankruptcy Judge in Orlando.

One of the highlights of practicing in Judge Proctor's court occurred when he would have in the courtroom an aggressive attorney from New York. When a question of procedure would arise, the New York attorney would jump up and say, "Judge, let me tell you how we do it in New York." Judge Proctor would let him go on for five minutes telling us all about how they did it in New York, and then Judge Proctor would look down at the New York attorney from the bench like the New York lawyer was some kind of bug and would say to him in his Jacksonville drawl, "We don't care how you do it in New York."

In 1978, a complete overhaul of the bankruptcy law was enacted by the Bankruptcy Code. That law made the bankruptcy referees Bankruptcy Judges appointed by the U.S. Circuit Court of Appeals. Judges Paskay and Proctor were appointed Bankruptcy Judges. That law also established the U.S. Trustee program.

In 1987, Tampa received its second bankruptcy judge, Thomas Baynes, an accomplished lawyer, author and law school professor.

In 1988, Lionel Silberman, a bankruptcy lawyer in Orlando, was appointed the first full-time Bankruptcy Judge in Orlando. Unfortunately, Judge Silberman died suddenly after only six months on the bench. He was succeeded by Judge Timothy Corcoran who had practiced with the Carlton Fields firm in Tampa.

When an opening for Bankruptcy Judge occurred in Tampa, Judge Corcoran transferred to Tampa and Judge Arthur Briskman, who was serving as a Bankruptcy Judge in Mobile, Alabama, was appointed to the Orlando judgeship. When Judge Corcoran finished his 14-year term, he decided to attend a Catholic seminary. He graduated and was ordained as a Catholic priest and now serves as the priest for a parish near Tampa.

In the 1990's, the population of the Middle District grew substantially and the number of bankruptcy case filings soared. The national average caseload for bankruptcy judges was 2,000 cases per judge. Tampa Bankruptcy Judges had caseloads of over 10,000 each and the Orlando and Jacksonville judges over 5,000 each.

In 1992, Congress approved two more judges for Tampa and one more each for Orlando and Jacksonville which resulted in the selection of Judge Karen Jennemann as the second bankruptcy judge in Orlando, Judge Jerry Funk as the second bankruptcy judge in Jacksonville, and Judge Paul Glenn as an additional Bankruptcy Judge in Tampa.

Later years saw the appointment of Bankruptcy Judges Michael Williamson, Rodney May, Catherine McEwen, Caryl Delano, and Roberta Colton in Tampa and Judge Cynthia Jackson in Orlando.

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In the past 50 years, the number of bankruptcy cases filed in the Middle District increased from hundreds of cases a year to tens of thousands of cases per year. The District went from having two bankruptcy referees in Tampa and Jacksonville to having ten Bankruptcy Judges in Tampa, Orlando, and Jacksonville. As the population of Florida and the Middle District continues to increase we can expect an increasing number of bankruptcy cases and continued growth of the Bankruptcy Court in the Middle District.