

Lee Ann's Legacy

by

Chief Judge Michael G. Williamson

"Hers is an American success story," said Chief Bankruptcy Judge Paul M. Glenn in June of 2006 on the appointment of Lee Ann Bennett as Clerk of our court. As described by Judge Glenn, "She has literally come up through the ranks," having held almost every job within the Clerk's office during her 18 years of service to the federal court system. "Her performance has been exceptional at every level and in every Division of this Court, she has proven her abilities, and she is highly regarded by all in the Court."

Judge Glenn's words were prophetic. In the years that followed with Lee Ann at the helm of our court, she oversaw the management of a court with an operating budget of more than \$9.6 million and at one time employing more than 160 senior staff, deputy clerks in charge, supervisors, and case managers resident in Tampa, Jacksonville, and Orlando.

In recent years working with Chief Judge Karen Jennemann, Lee Ann helped guide our court through the transition of eight judge teams to a new model based on "One Court, One Team." Her knowledge of court administration led her to be appointed Chair of the Bankruptcy Clerks Advisory Group in 2015, where she provided advice to the Administrative Office of the United States Courts on topics including work measurement formulas, shared administrative services, and bankruptcy rules and form changes. Not surprisingly, she was recognized for her achievements by being awarded the Director's Award for Outstanding Leadership in 2015.

It also came as no surprise when I recently received a call from Jim Duff, the Director of the AO, telling me that Lee Ann was on the short list for consideration as his Deputy Director. He asked what my thoughts on her abilities were. I responded, "Director Duff, you don't need to ask me, just ask the staff of your office what they think of her. Every time I visit the AO, they individually pull me aside and tell me that Lee Ann is the best Clerk of Court in the country."

So it was no surprise when Chief Justice John Roberts appointed Lee Ann to be Deputy Director of the AO. As Deputy Director she is responsible for the day-to-day management of the AO, with approximately 1,000 employees in five locations providing counsel and support to more than 2,000 federal judges and approximately 29,000 judiciary employees nationwide.

Truly, "hers is an American success story"—of a young woman, fresh out of Atlantic Christian College in Wilson, North Carolina, in 1982, starting with a chapter 7 trustee in Wilson then on to a position as a paralegal in an Atlanta bankruptcy boutique firm leading her to our Jacksonville Division in 1991.

And the rest is history.

Our history.

Thank you, Lee Ann, for all you have done for our court and for what you have contributed to the bankruptcy profession.



Pictured above: Lee Ann at a party celebrating her becoming Clerk of Court in 2006;

Pictured below: surrounded by the Tampa office staff at her farewell party in 2017.



Trustee Spotlight:
V. John Brook, Jr. Retires from Active Case Rotation in 2017
Submitted by: The Office of the U.S. Trustee

V. John Brook Jr. was appointed to the Tampa panel of trustees on August 2, 1988, and retired from active case rotation on January 1, 2017. Over the past 28 years he has been assigned thousands of cases.

John reflects that in those years some cases were fun—others were downright aggravating. The two cases he remembers most involved a large phosphate plant and a case of a tax protester back in the 1990's. He fondly remembers that . . .

“The phosphate plant pulled down millions of dollars from several banks and proceeded to file bankruptcy under Chapter 11 shortly after, along with several related companies. The reorganization efforts did not last long, and the cases were converted to Chapter 7. They were a real challenge from the beginning, but also a good deal of fun from the standpoint of learning about the phosphate industry and how fertilizer and related products are produced. With my trusty attorney sidekick, we got to cruise on top of a 100-foot gypsum stack containing millions of gallons of processed water that registered around a PH 2. That's real acidic – what they told me is you can swim under water in the mixture so long as you never get out – because when you get out and the air hits your body, you dissolve. Good information I thought for the next time I decide to go swimming.”

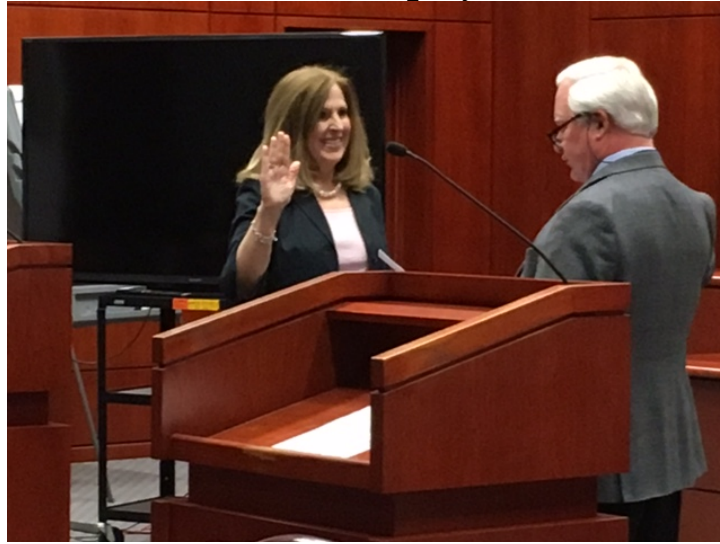
“More information came when we looked at one of the buildings where some of the raw materials were stored. The galvanized roof and walls were riddled with holes – you looked up and saw millions of stars. Amazing how destructive some of the products were that they had been making. Much of the problem was a lack of maintenance, as we also saw a large container that contained acidic water that was produced as a byproduct of the operations – it's contained so long as it does not mix with oxygen – unfortunately we saw several leaks and a disaster in the making if not for the DOR coming in and cleaning up the site. The State of Florida spent millions of dollars in the cleanup of the plant.”



“The tax protester case involved a gentleman and his wife who hadn’t filed a tax return in many years since they decided they were sovereign citizens and that the U.S. government (particularly the IRS) had no power over them. I was able to snag a \$300,000 bank account for the estate and, at that point, they decided they needed to dismiss the case. Judge Paskay obliged them. Fortunately, the IRS took over the account and was able to get the money for the back taxes. Unfortunately, the “gentleman” decided I had cost him \$300,000, and he placed a lien on my homestead based on a judgment from the Peoples Court. It was surprising that the Clerk of the Circuit Court would accept a judgment lien from a fictitious court and tie up someone’s home. I was required to hire counsel to remove the lien and obtained a judgment against the man and his wife. The judgment was recorded, and I figured that was the end of the story until about 15 years later [when] I received a call from the IRS advising me they had gone after the man’s home and would be paying off liens. It was gratifying to receive a check that covered my expenses and 15 years of interest.”

John states that he will miss the camaraderie of the trustee panel, the attorneys, and the discussions of current topics that make a trustee’s life interesting. As to what’s next, he and his wife, Chris, look forward to spending time with family and enjoying the North Carolina mountains. They have a new grandson born in October of last year. He’s a real bundle of joy—and a part time job for John and Chris. John has taken several welding classes and looks forward to finding and fixing antique cars – in particular he wants to acquire older Mini Coopers. A new career??? John will be closing out his case inventory in the upcoming months and will certainly be missed by all of his colleagues as he moves toward full retirement.

Sheryl L. Loesch Sworn-in as Clerk of Court, Middle District of Florida Bankruptcy Court



Pictured: Sheryl Loesch and Chief Judge Williamson during the Oath.

On Friday, April 14, 2017, Sheryl L. Loesch was sworn-in as Clerk of Court of the United States Bankruptcy Court, Middle District of Florida, by Chief Judge Michael G. Williamson in a short ceremony held in the Tampa Courthouse.

Chief Judge Williamson recently announced the selection of Sheryl to replace Lee Ann Bennett as Clerk of Court. Lee Ann was recently named Deputy Director of the Administrative Office of the U.S. Courts (AO). Sheryl has a wealth of experience and is no stranger to the Court. She served as the Clerk of Court for Middle District of Florida District Court for the past 18 years. Before that, she served as the Chief Deputy in the District of Kansas District Court. In addition, Sheryl served on many national committees for the AO and is a past President of the Federal Court Clerks Association. Sheryl is dedicated to the judiciary and to the staff who serve it.



Pictured: Chief Judge Williamson, Former Clerk Lee Ann Bennett, Judge Delano and Judge McEwen after the ceremony.

Please join us in welcoming Sheryl as our next Clerk.

The Tampa Office of the United States Trustee has a New Attorney!

Nathan Wheatley joined the Tampa office of the United States Trustee after over 17 years of private practice in the Cleveland, Ohio area. Most recently, Nathan was a partner at the Cleveland-based firm, Weston Hurd LLP, where he was the head of its insolvency and creditor's rights group, and the chair of its banking and finance committee. Nathan was a frequent speaker on bankruptcy and creditor's rights matters before groups such as the National Association of Credit Managers, the American Bankruptcy Institute, and the Northern District of Ohio Chapter of the Federal Bar Association. Nathan has been recognized by Ohio Super Lawyers as a Top 100 Ohio Super Lawyer and a Top 50 Cleveland Super Lawyer. Nathan received his B.A. in 1993 from Kent State University and his J.D. summa cum laude in 1999 from the University of Akron, School of Law.

Please take time to introduce yourself to Nathan when in Tampa.



Department of Justice

Acting United States Attorney W. Stephen Muldrow

Middle District of Florida

FOR IMMEDIATE RELEASE

CONTACT: WILLIAM DANIELS

March 15, 2017

(813) 274-6388

WWW.JUSTICE.GOV/USAO-MDFL

FORMER ATTORNEY PLEADS GUILTY TO BANKRUPTCY FRAUD

Tampa, FL – Acting United States Attorney W. Stephen Muldrow announces that Josiah E. Hutton (60, Winter Haven) today pleaded guilty to concealment of assets from a bankruptcy estate. He faces a maximum penalty of five years in federal prison. Sentencing has been set for June 5, 2017.

According to the plea agreement, Hutton was retained to represent a debtor who was planning to file for bankruptcy. In anticipation of filing a bankruptcy petition, Hutton received a settlement check, which was property of the debtor's bankruptcy estate, and deposited it into his attorney escrow account. Hutton later prepared and certified the debtor's bankruptcy petition, yet he failed to list the settlement check as an asset, thereby concealing the asset from creditors and the Bankruptcy Court.

This case was investigated by the Federal Bureau of Investigation and the Florida Department of Law Enforcement. It is being prosecuted by Special Assistant United States Attorney Chris Poor.

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Pro Bono Corner

The Florida Supreme Court and the Florida Bar Recognizes Samuel Pennington with the Pro Bono Service Award



The Florida Supreme Court and the Florida Bar recognized Samuel Pennington with the Pro Bono Service Award for his “efforts above and beyond the call of duty to serve the legal community and Florida as a whole.”¹ The award is given annually to lawyers, groups, and a member of the judiciary in recognition of their commitment to making legal services available to the poor.² In his legal career, Pennington has been committed to helping people through pro bono legal services.

Pennington graduated from the Cumberland School of Law at Samford University in 1979. After working for several years with Christian Prison Ministries, he took the Florida Bar exam in 1988. Since the mid-1990s, Pennington limited his practice to the area of bankruptcy law and kept focus on providing pro bono legal services.³

In 1996, the Greater Orlando Legal Services and the Lake County Bar Association recognized Pennington for his extraordinary pro bono services. And in 2015, the Community Legal Services of Mid-Florida named him the Lake County Pro Bono Attorney of the Year. In July 2015, Pennington joined the pro bono panel of Community Legal Services of Mid-Florida and had a key role in establishing a recurring bankruptcy legal advice clinic in Lake County. He also recruited attorneys to staff the clinic and has mentored new pro bono attorneys, as well as staff attorneys for Community Legal Services

¹ *Pro Bono Service Awards in Florida*, FLA. BAR (Jan. 25, 2017), <http://www.floridabar.org/ProBonoAwards>.

² *Id.*

³ *Samuel Pennington*, FLA. BAR NEWS, Feb. 1, 2017, at 9-10.

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of Mid-Florida. In 2016, Pennington devoted more than 100 hours of pro bono service to Community Legal Services clients while providing full representation to clients in Chapter 7 and Chapter 13 bankruptcies. Pennington is a member of the Order of Barristers, given for excellence in courtroom advocacy, and was a chair of the Orange County Bar Association Bankruptcy Committee in 1998-99 and again in 2015-16.⁴

⁴ *Id.*

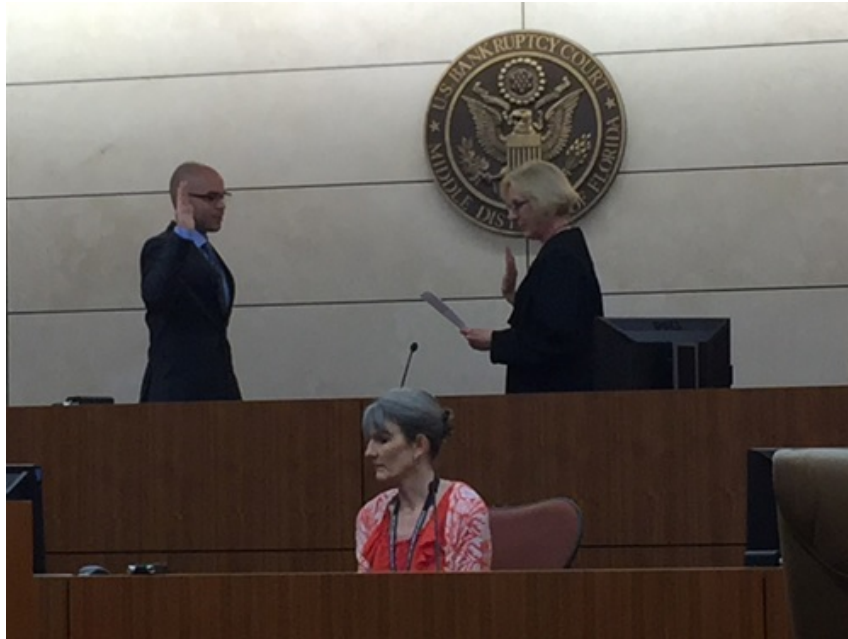
Make Me Smile Moments

Submitted by Judge McEwen

- Before the end of February, the entire month of March's Tampa Division courthouse clinic spots were fully subscribed! That's really stepping up. Thank you, volunteers, on behalf of all the Tampa division judges.
- In open court, Raul Cabrera offered to write out a motion to waive the personal financial management course requirement for an elderly pro se debtor who is undergoing chemotherapy and whose daughter manages her financial affairs.

Judges' Corner

On April 13, 2017, Judge Roberta A. Colton administered the Oath of Admission to her Law Clerk, Nick Abbattista at a small swearing-in ceremony. Nick graduated from Vanderbilt University Law School and just recently learned he passed the Florida Bar.



Law Clerk, Nick Abbattista, Judge Roberta A. Colton and Courtroom Deputy, Kim Osment during the ceremony.

Judge Catherine P. McEwen with fellow Smith Inn of Court members Eula Bacon (left) and Carolay Vargas (right) at their recent Cooley Law School graduation ceremony.





Judge Catherine P. McEwen pictured with Lee Ann Bennett in Washington, D.C.
Judge McEwen was able to visit Lee Ann at her office while she begins her new job as Deputy Director of the Administrative Office.

The Orange County Bar Association Honors Judge Arthur Briskman with the James E. Glazebrook Memorial Bar Service Award

Submitted by: Eva Gadzheva



(Pictured: OCBA President, Wiley S. Boston, Esq., and Judge Arthur Briskman with the award.

The Orange County Bar Association honored Judge Arthur Briskman with the 2017 James E. Glazebrook Memorial Bar Service Award. The award recognizes the accomplishments of a state or federal judge who serves and supports local bar associations; is dedicated to professionalism, both in and out of the courtroom; and who exemplifies qualities that heighten professionalism, including civility, integrity, and respect for our system of justice. Judge Briskman has served the bankruptcy community for over thirty years and has helped improve the effectiveness of the bankruptcy courts in their service and accessibility to those most in need. In his award speech, Judge Briskman highlighted the role of professionalism in helping those who feel invisible.

Professionalism: Listening to the Invisible¹

Professionalism is the manner an attorney conducts himself or herself with the public, in court, with colleagues, and particularly with their clients.²

¹ The Honorable Arthur B. Briskman, United States Bankruptcy Judge for the Middle District of Florida.

² Fla. Bar Standing Comm. on Professionalism, *Professionalism Expectations*, FLA. BAR, [https://www.floridabar.org/TFB/TFBResources.nsf/Attachments/1ACF11084FDADAA285257DE7006B5511/\\$FILE/Professionalism Expectations.pdf?OpenElement](https://www.floridabar.org/TFB/TFBResources.nsf/Attachments/1ACF11084FDADAA285257DE7006B5511/$FILE/Professionalism%20Expectations.pdf?OpenElement) (last visited Feb. 15, 2017).

Being a member of the legal profession has always been a high honor; with that honor comes significant corresponding responsibility to our community and its citizens.

Professionalism has been defined as a commitment to service and the public good, including efforts to provide all persons, regardless of their means, with access to the law and the judicial system.³

My view of professionalism may be through a different prism than many of you. The bankruptcy courts are a unique component of our judicial system.

We deal with individuals overwhelmed by everyday life and their financial obligations. They are in significant debt usually by their own circumstances and decisions, but in many cases, it is based upon events beyond their control.

Their efforts to deal with banks, mortgage companies, hospitals, insurance companies, the IRS, and other creditors have been frustrating and, in many cases, not productive.

When these individuals are in foreclosure proceedings or other litigation in our federal or state courts, they usually have no defense or remedy because they frequently owe the creditor and are unable to pay the debt. A positive resolution to their situation does not seem available or feasible.

I have been in the bankruptcy world for more than 40 years: as an attorney representing debtors, creditors, and trustees; as a judge; and as a child of a debtor in bankruptcy.

Our court provides a unique forum for debtors to pay their creditors what they would receive in non-bankruptcy courts and obtain a discharge of their legitimate debts, or propose a plan to repay their creditors and, in many cases, save their homes and receive a fresh start.

One hundred twenty thousand Chapter 7 debtors and 8,000 Chapter 13 debtors have received a discharge since 2001 in the Orlando Division. More than 3,600 debtors have received a permanent mortgage modification to save their homes since 2012.

The most frustrating aspect of being a judge is witnessing attorneys who are not prepared to provide the adequate representation required—the very definition of the lack of professionalism.

³ *Id.*

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Our court can be difficult to navigate, particularly for individuals who have been frustrated when dealing with creditors and other courts and who feel “invisible” because they perceive no one was seeing them, listening to them, or helping them.

More than 20% of our debtors are *pro se*, and many do not understand or speak English fluently.

Our success is based upon the professionalism of our staff, trustees, and attorneys. The court is evolving to endeavor to listen and show the way. Not every litigant obtains the relief they envision, but most obtain a fresh start to deal with their financial situation and the world with a more positive attitude.

Our voluntary attorneys in the *pro se* clinic, pro bono clinics, bench bar committees, and summits on particular aspects of the law are the vehicles to improve the access to and effectiveness of delivering justice to as many citizens as feasible.

Most significant is the Bankruptcy Bar, without monetary compensation and with a substantial amount of their valuable time, assisting unrepresented individuals.

They act as translators, giving individuals insight into the process and our procedures and pointing them in the right direction to better comprehend what can realistically be achieved, and in some cases, act as their counsel on a pro bono basis.

Hundreds of voluntary attorneys participated in more than 1,000 counseling sessions by donating thousands of hours in our *pro se* clinic.

Many times, all an individual, debtor or creditor, is looking for is someone to listen to them and explain what is possible, what is not, and why. Then they do not feel invisible.

We try to accomplish this in our court, and it demonstrates the professionalism we all strive for as attorneys.

Dear Point & Click:

Submitted by Sara Mason, Sarah Wiener, and Raymond Waguespack

- Q. I am a newly registered electronic filer in the United States Bankruptcy Court Middle District of Florida. Do you have any filing tips for new users?
- A. Yes, we do. Thanks for asking! Drumroll please ...
1. **Electronic Signatures**: Your CM/ECF login is your signature. You are required to either affix an electronic signature, /s/ Typed Name, or scan a document with your “pen to paper” signature. Because your login represents your signature, it may not be used to file documents for another attorney.
 2. **Forgotten Password**: If you forget your password to the Court’s electronic filing system, a recovery process is available on the Court’s website. To complete the recovery process, you must know your username/login and the primary email address associated with your account.
 - Password Recovery: <https://pacer.flmb.uscourts.gov/fwxflmb/ecfpwd/ecfpw.fwx>
 3. **Change of Address / Change of Law Firm**: If your firm relocates or you change law firms, you must notify the Court immediately, even if you do not intend to maintain a Bankruptcy Practice with your new firm. Online forms are available on the Court’s website to facilitate the process. You must also update your address or firm information with the Florida Bar, Middle District, and any other Court in which you may file. Programs used in conjunction with the preparation of documents to be filed in the Court may also require an update.
 - Change of Address: <http://pacer.flmb.uscourts.gov/cmecf/changeaddress.asp>
 - Change of Law Firm: <http://pacer.flmb.uscourts.gov/cmecf/changelawfirm.asp>
 4. **Electronic Communication**: The Court’s website contains a wealth of information, and you are encouraged to view it regularly for announcements and news. The Court also maintains a social media presence on Facebook and Twitter. CM/ECF informational updates, updated Court Procedures, and other Court news announcements are often posted. For example, if the CM/ECF system is having maintenance or is down for an unscheduled time, it is posted to Facebook and broadcasted via Twitter, in addition to being posted on the Court’s

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website. Authorized users can also subscribe to the Court's web delivery service to receive Court information via email notification.

- Court's Website: www.flmb.uscourts.gov
- Facebook: <https://www.facebook.com/bankruptcycourt>
- Twitter: <https://twitter.com/floridamiddle>
- Web

Delivery: https://public.govdelivery.com/accounts/USFEDCOURTS/subscriber/new?category_id=USFEDCOURTS_C94

5. **CM/ECF Search Feature**: When filing a document through the Court's CM/ECF System, if you are unsure what event to select, a *Search* feature is available on the Main Menu. Information on the Search feature can be found through the following link:

- Search in
CM/ECF: <http://www.flmb.uscourts.gov/cmecf/documents/attorneyeventguide.pdf>

IT News and Security Updates

The IRS is now using private debt collectors

by Colleen Tressler
Consumer Education Specialist, FTC

Do you have a debt with the IRS that's more than two years old? If so, you might be getting a letter from the IRS about your account being transferred to a private debt collector. This new program only applies to taxpayers who have had an IRS debt for years, and who were previously contacted about it by the IRS. Here's how it will work – and how to spot a scam.

If your debt is put into this program, [the IRS says](#) you will get two letters. **The first letter** will come from the IRS and will say which private debt collection company your account has been assigned to. The companies are: CBE, ConServe, Perfomant, or Pioneer. **The second letter** will come from the private debt collection company assigned to your account. **Both letters** will include the tax amount owed, the name of the private debt collection company assigned, and a taxpayer authentication number that is unique to you.

But here's how you can tell you're dealing with the actual debt collector, not a scammer.

- The private debt collectors working with the IRS **will never ask you to pay them directly**. Instead, they'll tell you to pay electronically at [IRS.gov/payments](https://www.irs.gov/payments), or send a check, made out to the U.S. Treasury, directly to the IRS. Anyone who says they're collecting for the IRS and asks you to make a payment over the phone is a scammer. Whether they're asking you to pay by credit or debit card, electronic check, wiring money, or a prepaid or gift card - don't do it.
- These debt collectors will never use robocalls or pre-recorded messages. You'll always speak with a live operator.
- They'll always use the authentication number that was in your letters.

Not sure you owe the IRS money? Ask the collector for a written "validation notice," which says what you owe and to whom. You also can go to [IRS.gov/balancedue](https://www.irs.gov/balancedue) to check your account balance. If your account balance says zero, you don't owe money and should not be getting calls.

To learn more about this new process, check out the [IRS's site](#). And remember: all debt collectors have to follow the law. [Know your rights](#), and [tell the FTC](#) if you spot a problem.

<https://www.consumer.ftc.gov/blog/irs-now-using-private-debt-collectors>

PROPOSED AMENDMENTS TO LOCAL RULES COMMENT PERIOD APRIL 3-MAY 18

The judges of the United States Bankruptcy Court for the Middle District of Florida are considering proposed amendments to the Local Rules. The proposals were posted on the Court's website for public comment beginning on April 3, 2017. The public comment period ends on May 18, 2017. When promulgated by the judges, the amended and new Local Rules will become effective on July 1, 2017.

Below is a summary of the proposed changes. Click [here](#) to review the proposed new and amended rules and provide comments.

Rule 1001-3 Privacy Policy Regarding Public Access to Electronic Case Files

Revised to provide that parties wishing to file papers containing personal data identifiers may file a motion for leave to file under seal.

Rule 1002-1 Petition Filing on Debtor's Behalf by a Representative, Holder of Power of Attorney, Guardian ad Litem, or Next Friend

This proposed rule establishes procedures for the filing of voluntary petitions by court-appointed representatives, holders of powers of attorney, guardians ad litem, and next friends. If a petition is filed by the holder of a power of attorney, the Court will enter an order to show cause why the case should not be dismissed; if the petition is filed by a "next friend" or person seeking to be appointed as "guardian ad litem," then the petition shall be accompanied by a motion. If no motion is filed, the Court will enter an order to show cause. The rule specifies the information and documents that must be filed in support of a motion or in response to an order to show cause. This rule is based upon Local Rules 1002.1 Petition -- General and 1004.1 Petition-Infant or Incompetent Person, United States Bankruptcy Court, District of Oregon.

Rule 2004-1 Examination of Debtor and Others

The rule is revised to require that the parties meet and confer prior to any scheduled hearing on a motion for protective order relating to an examination under Fed. R. Bankr. P. 2004.

Rule 4001-1 Automatic Stay

In addition to formatting changes, the rule is revised to include Middle District judges' policy of waiving the 14-day stay under Fed. R. Bankr. P. 4001(a)(c) for real estate, but not for automobiles, "absent compelling circumstances."

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Rule 5005-4 Sealed Papers

The rule is revised to clarify that it does not apply to documents being inspected by the Court in camera (which are not filed on the docket) and to specify the types of papers that may be filed under seal without prior court approval: motions for writ of garnishment, attachment, or execution; adversary complaints seeking injunctive relief; motions for TRO's that are requested to be granted without notice. The revisions are consistent with current clerk's office procedures.

Rule 7001-1 Adversary Proceedings – Procedures

In addition to formatting changes, the rule is revised to require pleadings that request injunctive relief to so state in the title of the pleading and to state, as per Fed. R. Civ. P. 5, that discovery papers must not be filed with the Court. Section (k)(5) is revised to more clearly explain when a proceeding or issue is not subject to the entry of final orders or judgments because it is either non-core or statutorily core but involves state law claims.

Rule 7026-1 Discovery – General

The rule is revised to state that, as with Fed. R. Civ. P. 5, discovery papers must not be filed with the Court. The revised Rule also requires that motions to compel and motions for protective order include a certification that counsel has met and conferred.

Rule 9004-1 Papers, Caption, Motions, Demands for Jury Trial, Injunctive Relief, Emergency Hearings

The title of the rule (renumbered from 9004-2) is revised to better reflect the contents of the rule.

Rule 9070-1 Exhibits

The rule is revised to replace Administrative Order FLMB-2015-06, which governs the use of electronically stored exhibits. A redlined and a clean copy are attached. The administrative order incorporated the provisions of current Local Rule 9070-1; the redlined copy reflects the revisions to the administrative order. The substantive revisions include a provision for exhibits with personal data identifiers (referring to Local Rules 1001-2 and 5005-4), and to clarify that the exhibits used for each witness shall be placed in a separate binder or folder. However, the failure to include an exhibit in a witness's binder is not ground for excluding the exhibit from being admitted into evidence.

CASE LAW UPDATE

Submitted By: Bradley M. Saxton & C. Andrew Roy,
Winderweedle, Haines, Ward & Woodman, P.A.

Supreme Court Cases

Czyzewski v. Jevic Holding Corp.
137 S.Ct. 973 (March 22, 2017)

The Supreme Court reversed the Third Circuit and held that the bankruptcy court may not approve a structured dismissal of a Chapter 11 case that provides for distributions that do not follow the rules of priority without the consent of the affected creditors.

Eleventh Circuit Cases

In re Lunsford
848 F.3d 963 (11th Cir. February 15, 2017)

The Eleventh Circuit held debt is excepted from discharge under § 523(a)(19) “for the violation of” federal securities laws where bankruptcy court found that debtor himself committed the violation. The exception would also apply where the debtor himself was not the violator of the securities laws as long as the securities violation caused the debt.

In re Appling
848 F.3d 953 (11th Cir. February 15, 2017)

The Eleventh Circuit applied a statutory construction analysis and concluded that § 523(a)(2)(B) should be read broadly such that a statement about a single asset can be a “statement respecting a debtor’s financial condition,” and where that statement is not in writing, it cannot provide a basis to except the debt from discharge.

Bankruptcy Court Cases

In re Progressive Plumbing, Inc.
6:15-BK-07275 (Bankr. M.D. Fla. March 2, 2017) (Jennemann, J.)

Claim objection sustained where claim was filed four days after claims bar date. Rule 9006(b)(1) allows a claimant to file a late-filed claim when (1) request is made before the deadline, or (2) on motion made after expiration of the deadline where the failure to act was a result of excusable neglect. To satisfy the Pioneer excusable neglect standard requires a motion.

In re Rothenbush

2017 WL 933019 (Bankr. M.D. Fla. February 27, 2017) (Colton, J.)

A Chapter 13 debtor can obtain derivative standing to pursue an avoidance action if the trustee unreasonably declines to do so.

In re Aye

2017 WL 713566 (Bankr. M.D. Fla. February 22, 2017) (Colton, J.)

While schedules are initially viewed at face value for section 109(e) eligibility, other factors, like a debtor's bad faith, may require the court look into other matters, including filed proofs of claim and state court stipulations.

In re Stanton

2017 WL 587983 (Bankr. M.D. Fla. February 14, 2017) (Williamson, J.)

Court holds U.S. Trustee waived its *Baker Botts* objection to supplemental fee request, finding that the Supreme Court's ruling in *Baker Botts* was consistent with long standing Eleventh Circuit precedent, so the objection raised by the UST was available even if the *Baker Botts* decision had not intervened.

In re Kaschkadayev

2017 WL 587982 (Bankr. M.D. Fla. February 14, 2017) (Williamson, J.)

Court grants stay relief to towing and storage company to foreclose its statutory storage lien but only for the pre-petition storage charges. The post-petition storage charges were incurred in violation of the stay where debtor surrendered his vehicle to the towing and storage company before filing bankruptcy.

In re Rhodes

563 B.R. 380 (Bankr. M.D. Fla. February 3, 2017) (Briskman, J.)

Court awards substantial sanctions, including compensatory damages for attorney's fees, accountant fees, and emotional distress, and awards punitive damages of \$25,000 against mortgage company, which failed to release its liens for over two years after receipt of payment on its claims in Chapter 13 case.

In re Ferrer

2017 WL 401188 (Bankr. M.D. Fla. January 30, 2017) (Funk, J.)

Debtor filed bankruptcy two days after purchasing a vehicle from creditor, yet did not list the creditor in original petition. Court denied complaint alleging a stay violation for the creditor's actions in contacting the debtor regarding the vehicle.

In re Dunning

Adv. 8:16-AP-00343 (Bankr. M.D. Fla. January 25, 2017) (Colton, J.)

Attorneys' fees incurred in proceeding to reduce child support do not constitute a "domestic support obligation" for purposes of section 523.

In re Bell

2017 WL 384678 (Bankr. M.D. Fla. January 25, 2017) (Glenn, J.)

Applying the 11th Circuit's holding in *In re Justice*, the bankruptcy court finds that the Debtor's filing of his 1040 tax forms late, after the IRS had issued Notices of Deficiency and assessed the tax liabilities, and considering the totality of the Debtor's conduct, was not an honest and reasonable effort to satisfy the tax laws. The late filed 1040s do not constitute "returns" under applicable non-bankruptcy law. Therefore, the debtor's tax liability is excepted from discharge under §523(a)(1)(B)(i).

In re Fohrmeister

8:13-BK-14728 (Bankr. M.D. Fla. December 30, 2016) (Colton, J.)

Court awards nominal damages of \$200, \$100 for each of two default notices sent in violation of the automatic stay. Court declines to award additional damages where debtor did not prove that additional amounts claimed were actual damages for the stay violations.

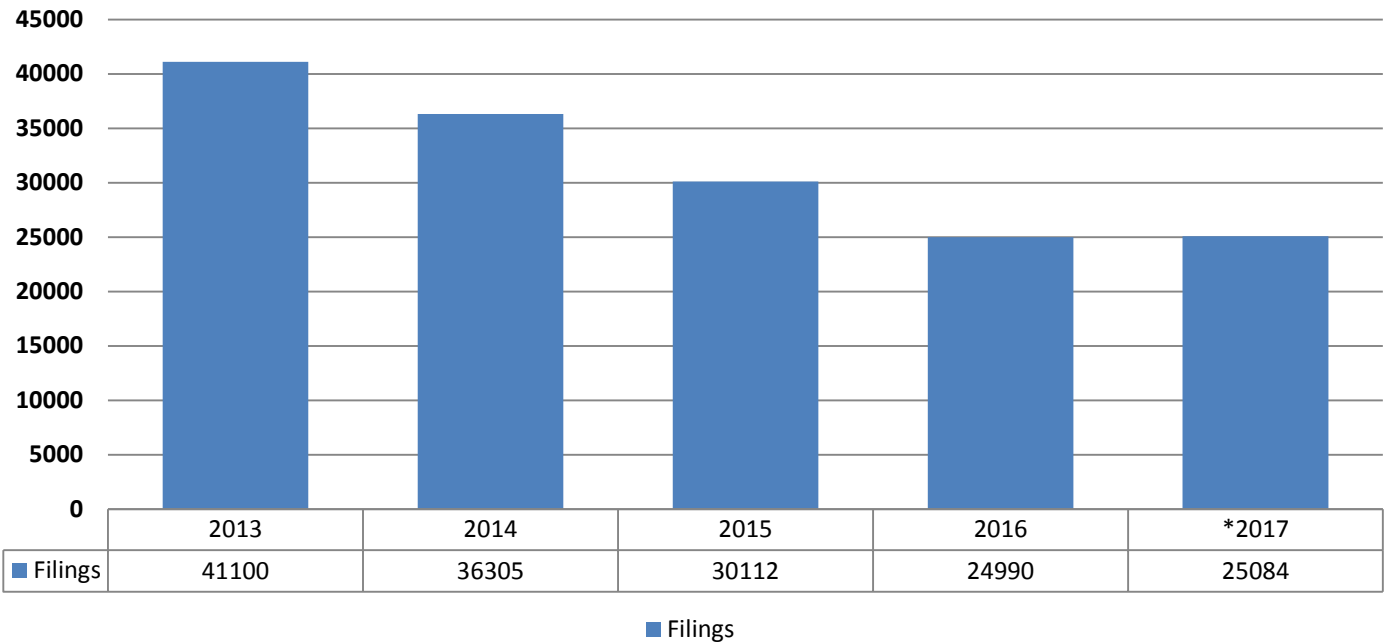
In re Petsch

8:16-BK-01766 (Bankr. M.D. Fla. December 13, 2016) (Colton, J.)

Court denies creditor's motion to allow a late filed claim in a Chapter 13 case. After pointing out that the "excusable neglect" option for allowing a late filed claim is not available in a Chapter 13 case, the Court rejects the creditor's contention that a claim it filed in a prior case (which was dismissed) involving the same debtors could be deemed an informal Proof of Claim.

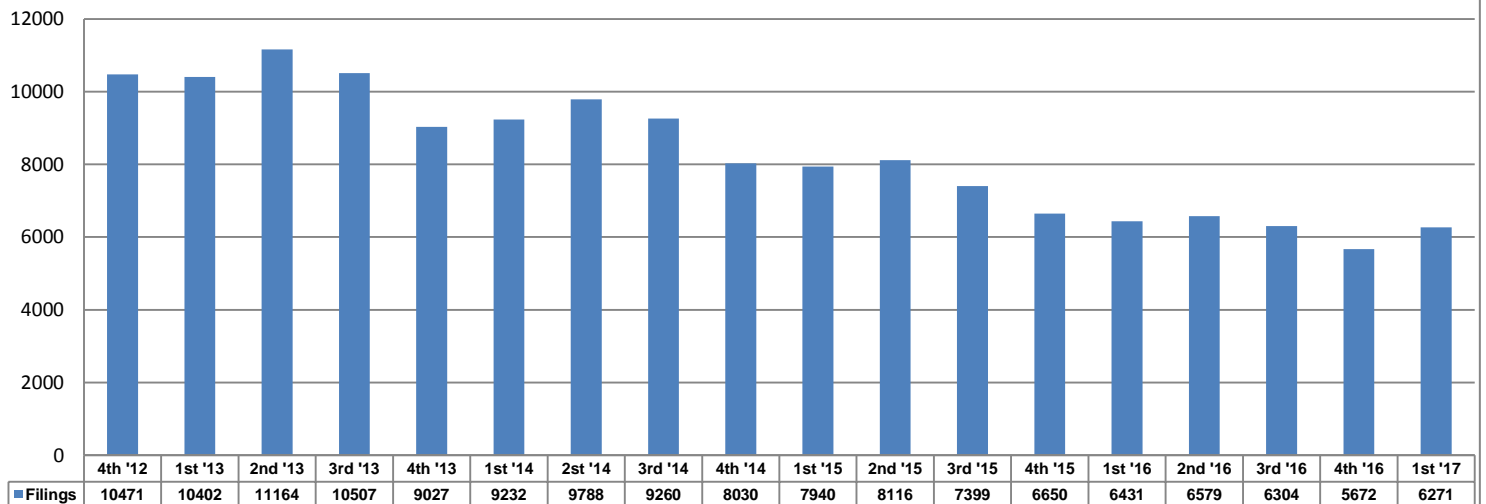
United States Bankruptcy Court - Middle District of Florida
Updated April 20, 2017 Statistics as of March 31, 2017

Annual Filings

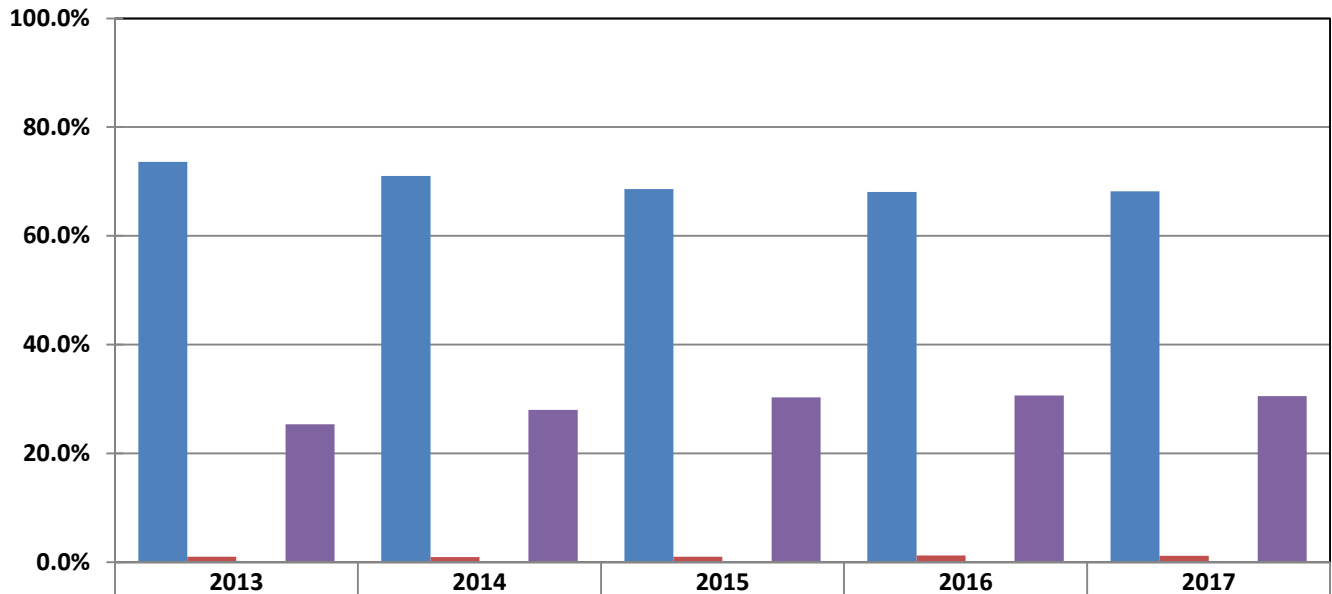


Year	Annual Filings	vs. 2013	vs. Prior Yr.
2013	41100		
2014	36305	-12%	-12%
2015	30112	-27%	-17%
2016	24990	-39%	-17%
*2017	25084	-39%	0%

Filings by Quarter

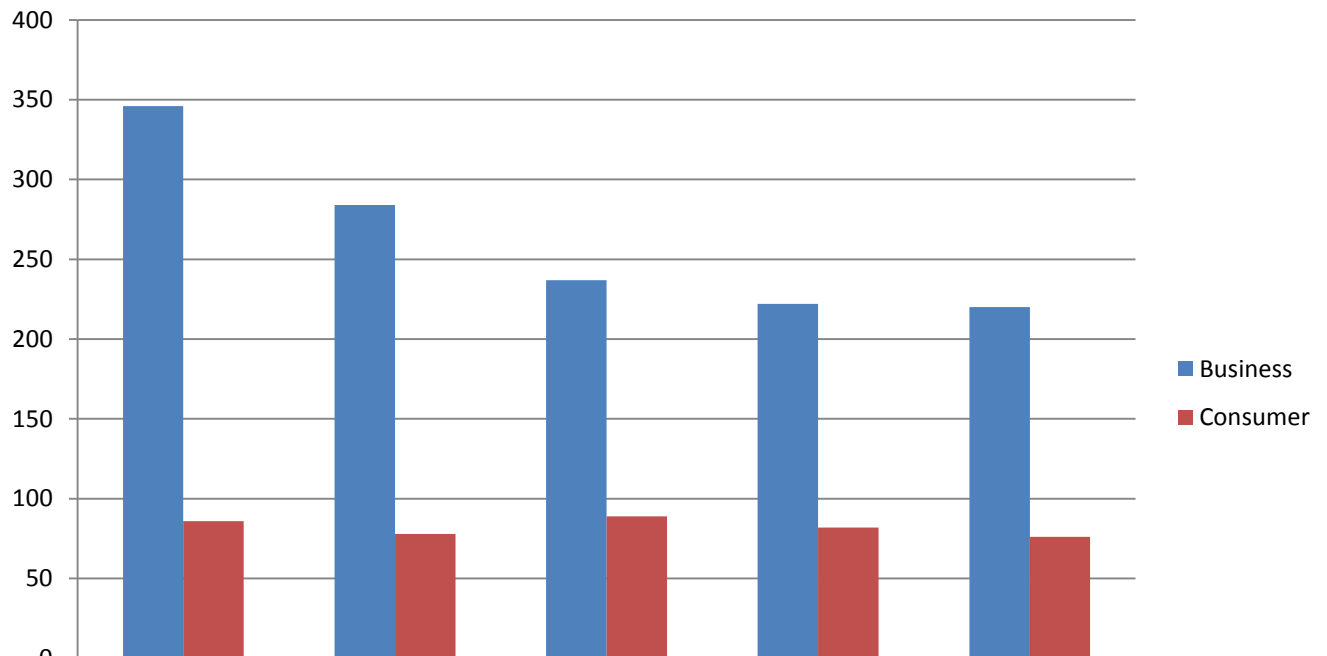


Filings by % of Chapter Type



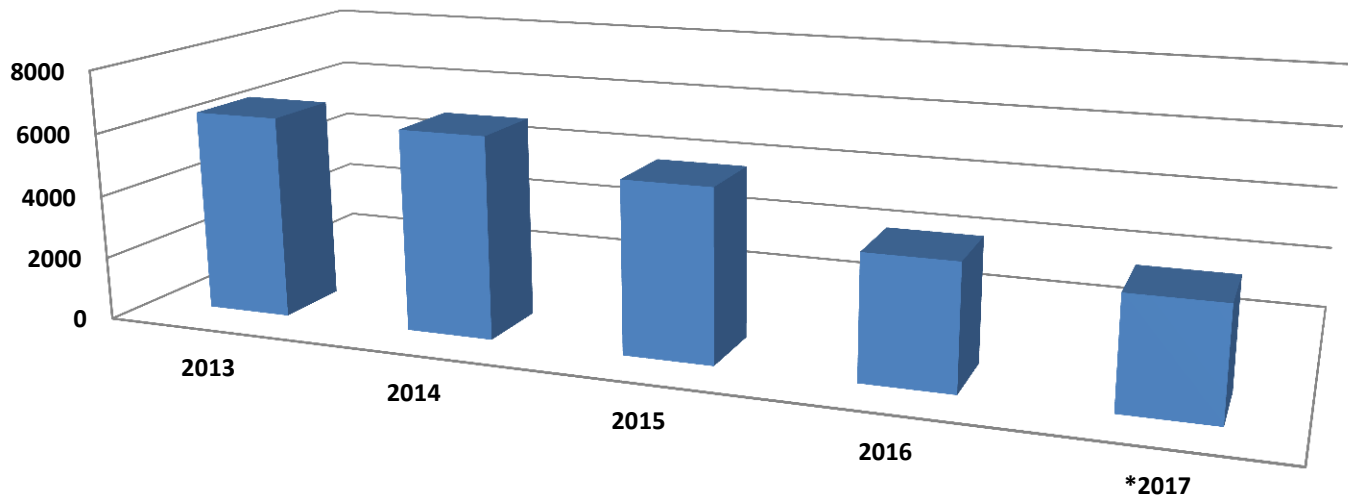
Chapter 7	73.6%	71.0%	68.6%	68.1%	68.2%
Chapter 11	1.0%	0.9%	1.0%	1.2%	1.2%
Chapter 12	0.0%	0.0%	0.1%	0.0%	0.0%
Chapter 13	25.4%	28.0%	30.3%	30.7%	30.5%

Chapter 11 Filings



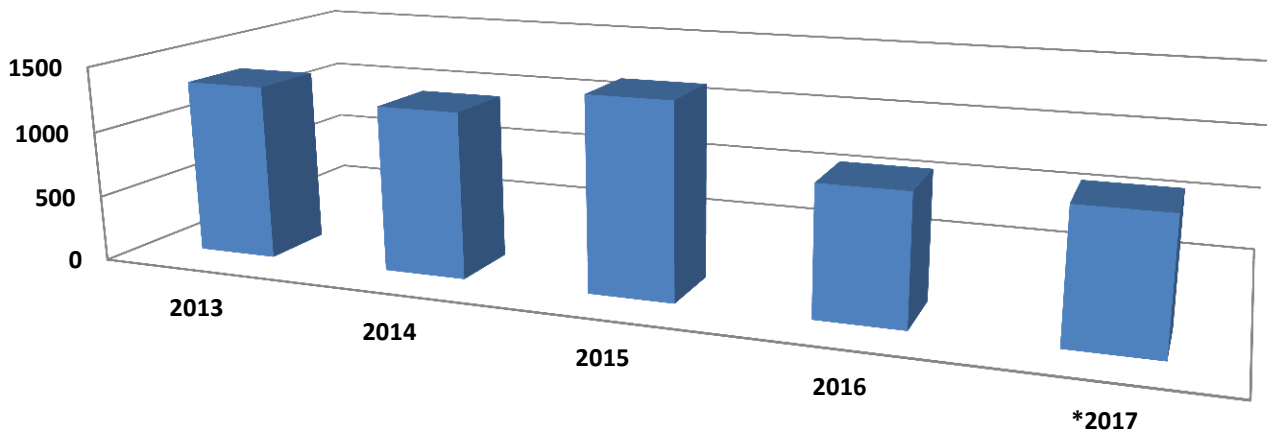
Business	346	284	237	222	220
Consumer	86	78	89	82	76

Pro Se Filings



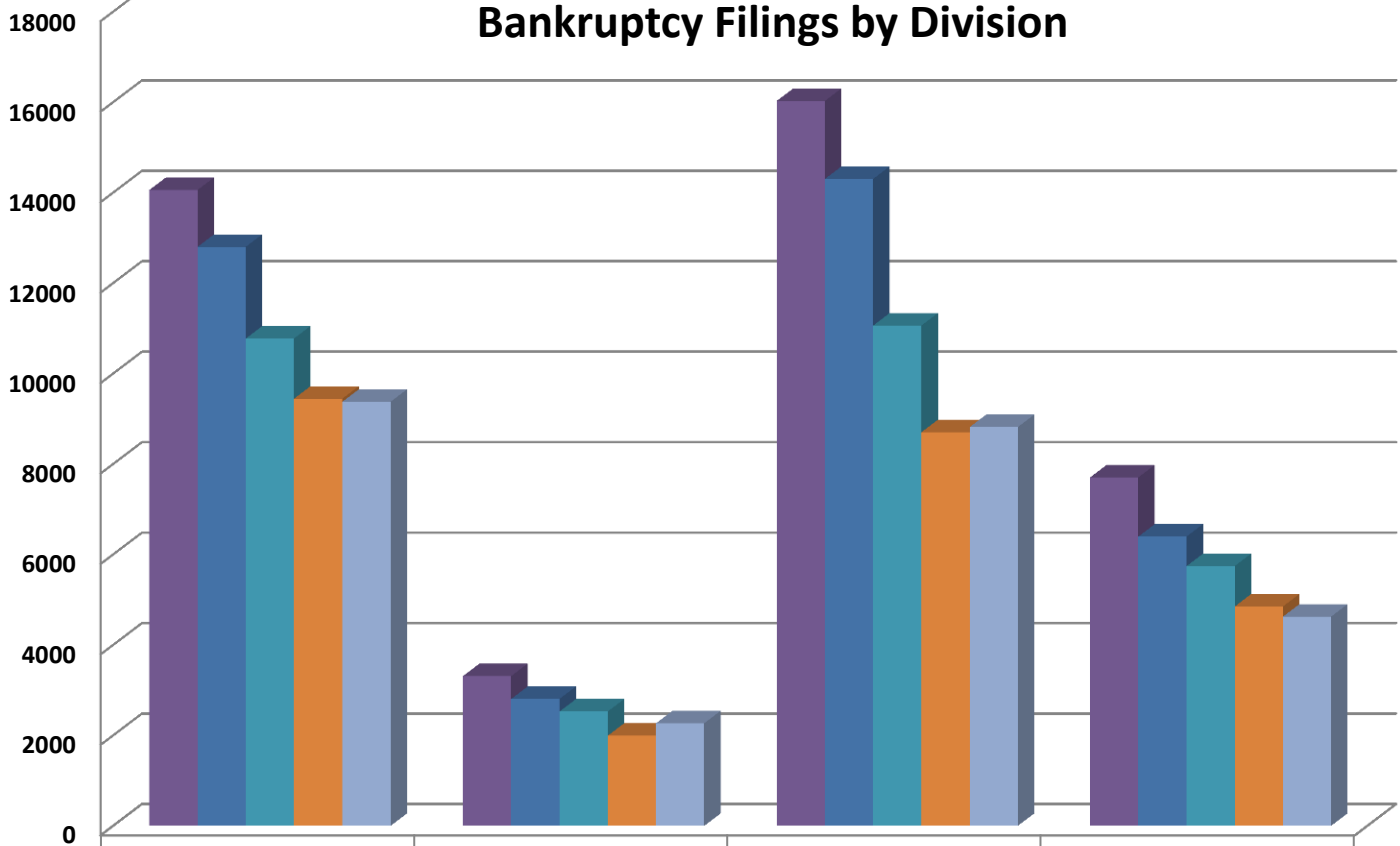
	2013	2014	2015	2016	*2017
Pro Se	6435	6387	5416	3902	3464
% of All Filings	16%	18%	18%	16%	14%

In Forma Pauperis Filings



	2013	2014	2015	2016	*2017
IFP Granted	1334	1256	1456	965	972
% of All Filings	3%	3%	5%	4%	4%

Bankruptcy Filings by Division



Note: 2017 Counts are projected totals.

Order Granting IFP counts have been corrected to include approving language.

Central Florida Bankruptcy Law Association
By: Ryan E. Davis, Esq.

CFBLA celebrates its 25th Anniversary this year! Thank you for the support of our members, the judiciary, and the courthouse staff over the years. It goes without saying that the CFBLA has helped create a camaraderie among us that has made the bankruptcy practice here in Central Florida unique and special.

In recognition of its anniversary, the CFBLA will host a founder's panel at its April 20th lunch, featuring some of the CFBLA's original members, including Judge May, Frank Wolff, and Andy Brumby. Our members are looking forward to hearing about the CFBLA's inception and evolution. This special luncheon will be moderated by Nicolette Vilmos.

Kudos to Judge Briskman, the 2017 recipient of the James Glazebrook Memorial Bar Service Award! This award is the highest honor presented by the Orange County Bar Association to a member of the judiciary. Judge Briskman provided his inspiring remarks at the OCBA Professionalism Award Ceremony on March 10, 2017. In honor of Judge Briskman, the CFBLA sponsored the reception that immediately followed the ceremony.

March was a busy month for the CFBLA. At its general membership luncheon, Brad Saxton and Andrew Roy presented their annual "case law update" to our members. The presentation proved to be entertaining and informative. The 2016 FAMU College of Law Book Award for excellence in bankruptcy law was also presented at the luncheon to this year's recipient, Suzan Pruter. Great job Suzan!



Pictured at right CFBLA President Ryan Davis, Book Award Recipient Suzan Pruter, and Judge Arthur Briskman.

On May 5, 2017, the CFBLA will be holding its annual seminar, which is always one of its biggest events of the year. This year, the seminar will be combined with the State of the District Address presented by Chief Judge Williamson. It is not too late to RSVP for this much anticipated event!

The CFBLA provides its members with a number of CLE and networking opportunities that you won't want to miss. If you have not already done so, be certain to begin or renew your membership right away. Go to www.cfbla.org and click the

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membership application link. If you're new to the CFBLA, check out our website for some great information and how to become a member.

Events:

May 5, 2017 – 2017 Annual CFBLA Bankruptcy Seminar/State of the District
Address – Citrus Club

Jacksonville Bankruptcy Bar Association
By: Katherine C. Fackler

On February 8, the JBBA held its annual Clerk's Office Appreciation Lunch to thank our Jacksonville clerks, Judges, and Chambers staff for all that they do for the JBBA throughout the year.

On April 24, the JBBA will host Phil von Kahle of Michael Moecker and Associates for a lunch at the River Club. Phil will speak about his time with Bernie Madoff. We look forward to having him.

In June, the JBBA (and particularly its outgoing President) look forward to its annual Election Lunch, where the new Officers and Board will be sworn in for the 2017-2018 year. A firm date has not been set.

Finally, the annual seminar will be held on August 25th at Sawgrass in Ponte Vedra. Questions regarding the seminar should be directed to Vice President Dan Blanks at daniel.blanks@nelsonmullins.com.

Tampa Bay Bankruptcy Bar Association

By: Kelley Petry

The TBBBA's Chapter 13 Seminar will take place on April 21, 2017, from 1:00 to 4:00 p.m. Judge McEwen and Judge Colton will be speaking, along with other distinguished practitioners, on a host of timely and interesting topics, including tax and HOA issues. Details regarding location and attendance fee will be forthcoming – stay tuned.

The TBBBA Annual Golf Tournament is April 28, 2017. Please be sure to sign your foursome up today and contact Jake Blanchard or Mike Markham if you would like to be a sponsor.

Mark your calendars and be sure to save the date for the TBBBA Annual Dinner! The Annual Dinner will be on June 1, 2017, back at the Palma Ceia Golf and Country Club by popular demand. Tickets will be \$85. Please contact Scott Stichter regarding sponsorship opportunities.

Southwest Florida Bankruptcy Professionals Association
Submitted by: Luis Rivera, Esq.

I read today in the Florida Bar News that our very own Jonathan I. Tolentino was recently awarded The Florida Bar President's Pro Bono Service Award in recognition of his pro bono service to the Collier Lawyers Care Pro Bono Program and Legal Aid Service of Collier County. As reported in the article, Jon has accepted on a pro bono basis over 21 chapter 7 bankruptcy cases since 2012, thereby helping "debt-laden, low-income families" who could not afford to pay legal fees "find financial relief and get a fresh start."

Congratulations to Jon on this award and many thanks from the Judges and staff of the Middle District Bankruptcy Court for his dedication to pro bono service.

Upcoming Bar Events

Jacksonville

- April 25 @ 11:30 am CLE Luncheon - Phil von Kahle of Moecker & Associates
Location: River Club
- August 25 Annual Seminar
Location: Sawgrass at Ponte Vedra

Orlando

- April 28 @ 11:30 am OCBA Bankruptcy Committee - featuring Judge Jennemann
Location: OCBA, 880 North Orange Avenue
- May 5, 9:00 am-5:00 pm CFBLA Annual Seminar and “State of the District” with Judge
Williamson
Location: Citrus Club

Tampa

- April 21 Chapter 13 Seminar
- May 2 @ 12:00 pm Consumer Brown Bag - Speaker: Judge McEwen
Location: 5th Floor Training Room, Sam M. Gibbons U.S.
Courthouse
- May 9 @ 12:00 pm CLE Luncheon
Location: University Club
- June 1 Annual Dinner
Location: Palma Ceia Golf & Country Club
- TBBBA Happy Hours: April 27 and May 25 @ 5:30 pm

LAW DAY EVENTS AROUND THE DISTRICT

[Clearwater Bar Association Law Day Luncheon](#)

May 12 - Safety Harbor Resort & Spa

[Collier County Bar Association Law Week Luncheon](#)

April 21 - Tiburon Country Club

[Hillsborough County Bar Association Law Day Luncheon](#)

May 11 - Hilton Tampa Downtown

[Jacksonville Bar Association Law Day and Annual Meeting Luncheon](#)

May 16 - Hyatt Regency Jacksonville Riverfront

[Lee County Association of Women Lawyers Law Week Judiciary Appreciation Reception](#)

May 4 - The Edison

[Orange County Bar Association Law Day 5K Run/Walk: Justice for All](#)

April 29 - Lake Baldwin Park

[St. Petersburg Bar Association Annual Law Day Luncheon](#)

May 5 - Mirror Lake Lyceum

[Sarasota County Bar Association Law Day Luncheon](#)

May 18 - Michael's on East

[Seminole County Bar Association Annual Law Day Banquet](#)

May 5 - Heathrow Country Club

[West Pasco Bar Association Law Week Luncheon](#)

May 4 - Verizon Event Center



**2017 CERTIFIED BANKRUPTCY ASSISTANT
AND PROFESSIONAL SKILLS SEMINARS
October 17-20 - Memphis, Tennessee
Sponsored by the Association of Bankruptcy Judicial Assistants**

The Association of Bankruptcy Judicial Assistants (“ABJA”) is sponsoring a Certified Bankruptcy Assistant Seminar and Exam on October 17 & 18, 2017, along with two Professional Skills Seminars on October 19 & 20, 2017, at the Hilton Memphis in Memphis, Tennessee.

This is an ideal opportunity to become “certified” as a bankruptcy assistant. The Certified Bankruptcy Assistant (“CBA”) program is aimed specifically toward secretaries, administrative assistants, paralegals, and other support personnel who work in or have day-to-day contact with the bankruptcy courts. The two-day certification program includes a one and one-half day preparatory training workshop with the exam being administered the afternoon of the second day. The training and exam cover topics such as grammar usage and writing, the Bankruptcy Code and Rules, ethics, and research and proper legal citation. The instructors this year are top-notch, including U.S. Bankruptcy Judges, legal practitioners, and administrators from the Federal Administrative Offices. A study guide developed by The University of New Orleans, numerous professors, judges, and practitioners in the bankruptcy field, in conjunction with the ABJA, is provided to participants in advance of the program. To see if you meet the criteria to participate in this program and/or for more information on the CBA program, please visit the ABJA’s website at <http://www.abja.org/content/certified-bankruptcy-assistants-cba-program>.

After obtaining certification, there is a responsibility to maintain a high degree of knowledge and proficiency in the bankruptcy field by obtaining a minimum of six Continuing Education Units (“CEUs”), which is equivalent to six classroom hours, every two years.

The ABJA is also offering two Professional Skills seminars on October 19 and 20. If you need to satisfy your CEU requirements or you are just interested in enhancing your professional development, these seminars are your opportunity to join judicial assistants/secretaries, other court personnel, and paralegals from around the country for classes taught by Judges and Clerks, among others. The registration form can be found here: <https://fs22.formsite.com/abja/form8/index.html>.

TAMPA BAY BANKRUPTCY BAR ASSOCIATION

19th ANNUAL GOLF TOURNAMENT

Title Sponsors: Michael Moecker & Associates, Inc., David Steen, P.A., Bush Ross, P.A. and Shumaker, Loop & Kendrick, LLP



WHEN: Friday, April 28, 2017
 11:30 a.m. check-in/lunch*
 12:00 p.m. putting contest
 12:45 p.m. shotgun start

WHERE: Bay Palms Golf Club
 MacDill AFB**
 Tampa (813) 840-6904

FORMAT: Four person scramble

FEE: **\$85.00** per person
 (Includes golf, box lunch, drink tickets, prizes, dinner and more)

*Check here if you would like a vegetarian meal _____

GOLFER(S)	PHONE OR E-MAIL ADDRESS	DRIVERS LICENSE #/STATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Please make checks payable to:
Tampa Bay Bankruptcy Bar Association



Send Application and fee to:
JOHNSON POPE
Attn: Minerva Granger
401 E. Jackson Street, Suite 3100
Tampa, Florida 33602
Phone (813) 225-2500
Fax (813) 223-7118
Email-MinervaG@JPFIRM.com

Please include all team members (if you have a team) on the same application, if possible. Individuals or groups of less than four will be randomly teamed into four person teams. Anyone and everyone is invited – friends, clients, family, non-bankruptcy attorneys – even judges!

****Enter MacDill AFB through Bayshore gate. Must have drivers license. NO LAST MINUTE SUBSTITUTIONS WILL BE PERMITTED. Please advise if non-golfers wish to attend so that they are included on the gate list! (Better to be on the gate list and not be able to make it, then to be able to make it and not be able to gain entry!)**