

The Little Extra That Makes It Work

By: Chief Judge Michael G. Williamson

Last month I had the pleasure of attending the annual Employee Recognition ceremonies in the Jacksonville, Orlando, and Tampa Divisions. In addition to their regular duties, a majority of our staff also contribute to the ongoing improvement to our court's procedures and overall operations and outreach through their participation as members of a number of committees that were formed by Judge Jennemann as part of the process of bringing our Court into a new era based on the concept of One Court, One Team on a district-wide basis.

The most difficult challenge that Judge Jennemann faced in thinking "District Wide" was establishing uniform procedures throughout the District. Our court had a longstanding tradition of allowing each judge to dictate the procedures that applied to his or her cases—policies that were followed by chambers staff and the case managers assigned to the individual judge. Simply put, the judge-by-judge approach could no longer be supported in today's budget environment.

Following Judge Jennemann's mantra to "Think Bottom-Up, Not Top Down," this ambitious project did not start with the judges. Instead, numerous committees were established, which comprised of the accomplished and experienced members of our Clerk's staff, who together have over 1000 years of combined experience working in our Court.

I want to again express the appreciation of our Court to those of you who served on one or more of the following committees:

Procedures Gathering Committees, made up of Case Managers, were set up to catalogue all of the different procedures in place among the judges' teams. Members of these committees over the past year were:

Cathy P.
Dana B.
Faye G.
Kim P.
Laura G.

Mary H
Ryan S.
Susan B.
Tonya C.

Procedures Update Committee is made up of two Case Managers. This committee reviews completed district procedures to locate needed updates that result from updated Federal Rules of Bankruptcy Procedures, forms, Local Rules and updated fees. Members of this committee over the past year were:

Debbie K.

Nadia H.

Procedures Drafting Committee is made up of a CM/ECF Trainer, a CM/ECF Administrator, four Case Management Supervisors, and one Judicial Assistant. This committee is responsible for combining the three received divisional procedures into one draft procedure document. Members of this committee over the past year were:

Sara M.

Christine B.

Maggie M.

Tina M.

Jill N.

Michael S.

Mary M.

Website Committee consists of staff in various positions in all locations. This committee is responsible for reviewing content and format of existing internal and external websites. Members of this committee over the past year were:

Sara W.

Marco E.

Alyson J.

Kate M.

Celia R.

Brenton P.

Dedra G.

Ellen M.

Linda L.

Patrick M.

Armando D.

Training Committee consists of staff in various positions in all locations. It's primarily responsible for creating, implementing, and monitoring a staff training plan. Members of this committee over the past year were:

Ann I.

Laurie E.

Kathy D.

Alyssa D.

Jill N.

Penny M.

Bess D.

Aimee J.

Dianna V.

IT Testing Committee consists primarily of Case Management staff from all divisions. Committee members perform end-user testing of any software

updates and new software prior to implementation. Members of this committee over the past year were:

Scott L.	Deanna B.
Bernadette L.	Melanie L.
Sabrina M.	Susan M.
Cathy M.	Karla M.
Anel M.	

Outreach Committee assists with forming and fostering connections among staff in all divisions, which results in a more cohesive staff thinking District-wide. The committee plans and coordinates various celebrations and community outreach/fundraising efforts. Members of this committee over the past year were:

Alison H.	Gull W.
Nita B.	Rutha H.
Karla M.	Penny M.
Dianna V.	Susan M.
Susan G.	Vivianne C.
Chris T.	Marti M.
Heather L.	

Newsletter Committee consists of staff in various positions in all locations. This committee is responsible for issuing the Court's external and internal quarterly newsletters – The “Court Connection” and “The Court Interconnection”. Members of this committee over the past year were:

Ed C.	Jodie H.
Susan M.	Jill N.
Aimee J.	Ray R.
Laura S.	Susan M.
Dana B.	

Through their participation on these various committees, each committee member contributes to the ongoing improvements to our Court's procedures, as well as the Court's overall operations and community outreach efforts. On behalf of our Court, thanks to all of you for giving the little extra that makes it all work.

U.S. Trustee Spotlight

By: Nathan A. Wheatley, Trial Attorney, Tampa Office of the U.S. Trustee

Filing under Seal

It is a truism that the open and honest disclosure of information is integral to the success of the bankruptcy process. So much so that 11 U.S.C. § 107(a) expressly provides that papers filed in a case under Title 11 and in the dockets of a bankruptcy court are public records and available for examination by any party. By contrast, motions to file pleadings and documents “under seal” are disfavored and should only be granted when there is an actual need to protect a party from harm. 11 U.S.C. § 107(a).

But where and when appropriate, 11 U.S.C. § 107(b) authorizes the bankruptcy court to enter an order to protect a person or entity from the disclosure of trade secrets, confidential research, development, or commercial information, or from the disclosure of scandalous or defamatory information within a paper filed with the court. And Federal Rule of Bankruptcy Procedure 9018 provides that, upon motion or its own initiative, and with or without notice, the bankruptcy court may make any order “which justice requires” to protect any person with respect to a trade secret, confidential research, development, or commercial information, or to protect against any scandalous or defamatory information in a filing, or to protect governmental matters made confidential by statute or regulation. But, even if filed under seal, such information will remain accessible to the United States Trustee, the bankruptcy administrator, a trustee, and any auditor appointed by the United States Trustee under 28 U.S.C. § 586(f). 11 U.S.C. § 107(c)(3).

Within the Middle District of Florida, the United States Bankruptcy Court’s Local Rule 5005-4 governs the filing of papers under seal. Local Rule 5005-4 creates two categories of papers that may be filed under seal: 1) papers that may be filed under seal without the entry of a prior order; and 2) papers for which an order must be entered prior to filing under seal. In the first category are motions for a writ of garnishment, writ of attachment, or writ of execution; adversary complaints seeking emergency injunctive relief; trustee’s motions to inspect or enter upon property without notice; and motions for temporary restraining orders that are requested to be entered without notice. For all other filings, an order granting a motion to file under seal must be entered before the paper is filed under seal. As with § 107 and Rule 9018, the United States Trustee, the bankruptcy administrator, a trustee, and any auditor appointed by the United States Trustee under 28 U.S.C. § 586(f) shall continue to have access to the papers filed under seal.

Finally, the Court will consider, on a case-by-case basis, who may have access to the sealed papers and related orders, and if and when restrictions on access should be terminated.

So best practices dictate that parties carefully review § 107, Rule 9018, and Local Rule 5005-4 before submitting papers under seal; consider the scope and extent of the protections they are seeking; and ensure that they strictly observe the protocols established by Local Rule 5005-4 during the filing process.

Using Attorney Admission Funds for Interpreter Services in Bankruptcy Court

By: Jason Kadzban, Chief Deputy

A basic tenet of our judicial system is that litigants have a right to be heard and to present their side of the story. What happens when a litigant does not speak the same language as the judge and the other litigants? In a criminal case, the defendant has the right to an interpreter—problem solved. However, in bankruptcy court, there is no such right, and the problem remains. The lack of interpreting services poses significant barriers to the administration of justice.

While the problem is well recognized, there is no easy fix. At its June 2015 meeting, the Committee on the Administration of the Bankruptcy System of the U.S. Judicial Conference reviewed the growing need for language interpreters in bankruptcy courts. Possible solutions proposed were: (1) exploring legislative changes; (2) finding ways to help the parties pay for interpretation services; (3) using attorney admission funds to pay for interpreters; and (4) trying the use of automated translating services. This article focuses on the third alternative and also discusses the use of telephonic interpretation services.

Attorney admission funds, also known as non-appropriated funds, are monies paid by new attorneys when they are admitted to district courts. The attorney admission funds are kept separate and are to be used “only for purposes that benefit the members of the bench and the bar in the administration of justice.”¹ Attorney admission funds may not be used for appropriated services, even if the appropriation cannot pay for the service.² The only funds appropriated for interpreters in bankruptcy court are for the rare instance when a proceeding is instituted by the United States.³

The United States Bankruptcy Court for the Middle District of Florida requested and received approval to provide attorney admission funds to the Central Florida Bankruptcy Law Association (CFBLA). CFBLA will now be the administrator for telephonic interpreter services provided by Language Line Services. Use of Language Line Services is straightforward, effective, and efficient. The courtroom deputy phones Language Line Services (just as they would a party appearing by telephone), enters a code, requests the language needed, and then a qualified interpreter will be on the line to interpret the proceeding.

¹ Administrative Office of the U.S. Courts, Guide to Judiciary Policy, Vol. 13, Ch. 6, § 670.20(a).

² *Id.* § 670.30.10.

³ 28 U.S.C. § 1827(d)(1) (2012).

In bankruptcy court, interpreters are needed most often in short hearings on matters such as reaffirmation agreements and motions for relief from stay. It is impossible to know that an interpreter is needed until the litigant shows up and says they do not speak English. Most services offer translation in over 240 languages. The Court will provide this service for non-evidentiary hearings, status conferences, and reaffirmation agreements. For trials and evidentiary hearings, it will be the party's responsibility to obtain and pay for an interpreter.

The District of Nevada, District of Arizona, Northern District of Illinois, Eastern District of California, and Eastern District of New York have all used Language Line Services for a year or more. The U.S. Trustee uses Language Line Services to interpret for non-English speaking debtors during 341 meetings of creditors. All had positive feedback to report about the service.

With our large pro se and Spanish-speaking population, the United States Bankruptcy Court for the Middle District of Florida is piloting this service. If it goes well, the Court hopes that the District Court will also consider using the service. The cost to the admission funds will not be great, but the benefit to our bench, the bar, and the public will be tremendous.

Announcements & Upcoming Events

November 1 - Bench Bar Conference
Sam M. Gibbons US Courthouse, Tampa, FL

November 1 @ 5:30 pm
View from the Bench Reception
The Vault, Tampa, FL

November 2 @ 8:00 am
View from the Bench
Stetson University College of Law, Tampa Law Center
Tampa, FL

November 3 @ 12:00 pm
Orlando Chapter of Federal Bar Association State of the District
George C. Young US Courthouse Atrium, Orlando, FL

November 16 @ 6:00 pm
CFBLA 25th Anniversary Dinner
Citrus Club, Orlando, FL

December 4 @ 4:00 pm
The Honorable K. Rodney May Retirement and Portrait Ceremony
Sam M. Gibbons US Courthouse, Tampa, FL

December 7
CFBLA Holiday Party

December 14
JBBA Annual Holiday Party
The River Club, Jacksonville, FL

January 18 & 19
42nd Annual Alexander L. Paskay Memorial Bankruptcy Seminar
Bryan Glazer Family JCC, Tampa, FL

**The JA's Have Left the Building:
Judicial assistants attend Association of Bankruptcy Judicial Assistants
Conference in Memphis, Tennessee.**



L-R: Laura Stevenson, JA to Hon. Caryl Delano, Mary Morrison, JA Emeritus to Hon. Catherine P. McEwen, Mary Maddox, JA to Chief Judge Michael G. Williamson, Dedra Gann, JA to Hon. Catherine P. McEwen

Central Florida Bankruptcy Law Association

By: Ryan Davis, Esquire

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.

CFBLA is proud to announce this year's recipients of the Jules S. Cohen Professionalism Award. CFBLA established this award in 2003 to honor an attorney practicing before the bankruptcy court in the Orlando Division of the Middle District of Florida who demonstrates, on a consistent basis, professionalism and civility in dealing with the Court and opposing counsel, high ethical standards, competent legal representation of his or her clients, and sustained service to the bankruptcy community. This award has only been given *once* since its creation in 2003. This year's recipients are: Robert Higgins of the Lowndes, Drosdick firm; and Peter Hill of Heron Hill. Kudos to them for displaying the highest levels of civility throughout their distinguished careers! Please join us at our 25-Year anniversary dinner on November 16, 2017, at 6:00 p.m., at the Citrus Club in downtown Orlando, to hear their remarks.

CFBLA will be hosting its annual lunch for our amazing courthouse staff and bankruptcy clerks on October 19, 2017, at noon, at the Citrus Club in downtown Orlando. This is CFBLA's small thank you for the staff's tremendous work behind the scenes that allows our cases to run smoothly and efficiently.

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

Upcoming Events:

October 19, 2017: Clerk/Staff Appreciation Luncheon at Citrus Club, at noon, in downtown Orlando

November 16, 2017: 25-Year Anniversary Dinner at Citrus Club, at 6:00 p.m., in downtown Orlando

**Orange County Bar Association
Bankruptcy Committee**

Sophia Dean, Esquire and Joshua Tejes, Esquire

The Bankruptcy Committee held a CLE in August with Chapter 13 Trustee Laurie Weatherford's office, and we had a record turnout of over 50 people! We discussed new case law that now allows non-privity debtors to file a chapter 13 bankruptcy and cram down properties. We hope this change in the law will bring in new filings to debtors' attorneys and the Court.

We have an upcoming CLE on October 27th: *The Procedural Nature of Judgment Enforcement and Recovery*. Lunch is sponsored by First Green Bank.

We will discuss, in chronological order, the first and last steps in the recovery of an unsatisfied judgment. Beginning with a discussion of fee arrangements with a prospective client, the presentation will address topics of attorney compensation, client management, collection opportunities, judgment debtor deviance, etc. Along with numerous topics that will be addressed, Mr. Weiner and Mr. Rotella will discuss their personal experiences collecting on judgments in order to provide up-to-date information on the nature of judgment enforcement. The legal theories behind these topics will be discussed as well.

Southwest Florida Bankruptcy Professionals Association

Congratulations to Luis Rivera! The American Bankruptcy Institute has announced that he is a member of 40 under 40 Class for 2017. The program recognizes new voices and rising stars in the insolvency industry.

On October 19th, the SWFBPA held its 6th Annual Alexander L. Paskay Memorial Dinner. Chief Judge Williamson, Clerk of Court Sheryl Loesch, and Deputy-in-Charge Kathy Deetz were among the attendees. A highlight of the evening was the presentation of the Alexander L. Paskay Professionalism Award to Judge Delano. This award is based upon, among other traits, the demonstration of ethical conduct and professionalism at the highest level and long-term service to the Bankruptcy Bar.

The Association also swore in its new board of directors:

Mike Dal Lago, President
Jonathan Tolentino, Vice President
Joseph C. Trunkett, Secretary
Gerard “Jerry” A. McHale, Treasurer



Pictured above: Courtroom Deputy Paula Turner Luce, Judge Caryl Delano, Law Clerk Dana Robbins, and Deputy-in-Charge Kathy Deetz after presentation of the Alexander L. Paskay Professionalism Award.

Upcoming Bar Events

Fort Myers

November 16 &
December 14 @ noon SWFBPA meetings
Location: Federal Courthouse Building, 2nd floor, Jury
Assembly Room

Jacksonville

December 14 @ 5:30 JBBA Annual Holiday Party
Location: The River Club

Orlando

October 27 @ noon OCBA Bankruptcy Law Committee Luncheon: *The
Procedural Nature of Judgment Enforcement and
Recovery*
Location: OCBA Center, 880 North Orange Avenue

Tampa

November 2 @ 8:00 a.m. Florida Bar Business Law Section View from the Bench
Location: Stetson University College of Law Tampa Law
Center

November 3 @ 11:00 Federal Bar Association Coffee at the Courthouse
Location: Sam M. Gibbons U.S. Courthouse

December 4 @ 4:00 Judge May Retirement and Portrait Ceremony
Location: Sam M. Gibbons U.S. Courthouse, 17th Floor
Ceremonial Courtroom

December 5 &
January 16 @ noon TBBBA Consumer Luncheons
Location: Sam M. Gibbons U.S. Courthouse, 5th Floor

December 12 &
January 9 @ noon TBBBA CLE Luncheons
Location: University Club

Also of note:

[42nd Annual Alexander L. Paskay Memorial Bankruptcy Seminar](#)

January 18 & 19

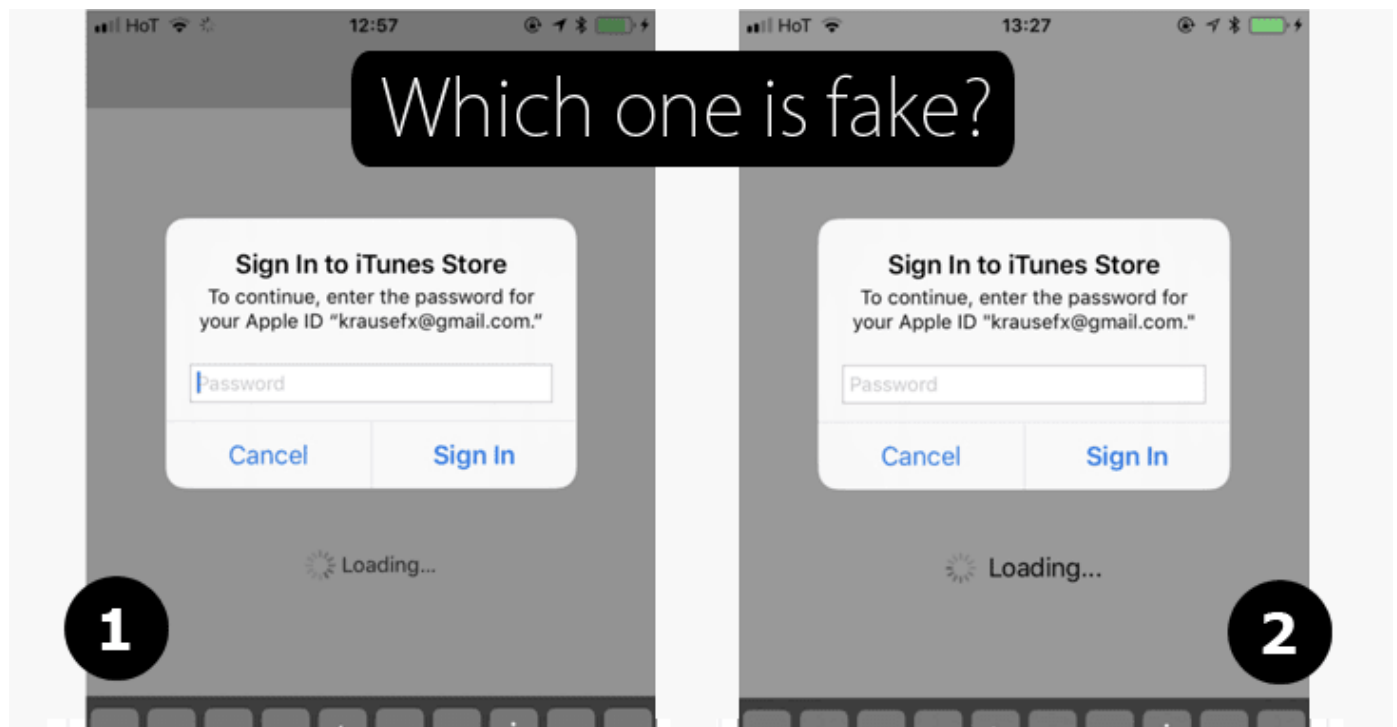
Locations: Bryan Glazer Family Jewish Community Center & Epicurean Hotel

IT Security News and Updates

Submitted by: Laurie Ellwood, Network Administrator

October is National Cyber Security Awareness Month, below are some links and tips to increase cybersecurity awareness and help protect your online activities.

- <https://staysafeonline.org/stay-safe-online/online-safety-basics/>
- <https://www.us-cert.gov/ncas/tips/ST04-014>



Can you detect which one of the above screens—asking an iPhone user for iCloud password—is original and which is fake?

Follow the link below for the answer and how to protect yourself from this attack:

- <https://thehackernews.com/2017/10/apple-id-password-hacking.html>

CASE LAW UPDATE

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

Eleventh Circuit Cases

In re Narcisi

691 F. App'x 606 (11th Cir. 2017)

Affirmed bankruptcy court's *sua sponte* summary judgment in favor of debtor. Creditor failed to show existence of a fiduciary duty under consignment arrangement with the debtor or state law. Further, the creditor's claim for larceny was not supported because plaintiff voluntarily gave its property to debtor under consignment arrangement.

Bankruptcy Court Cases

In re Southside Church of Christ of Jacksonville, Inc.

572 B.R. 384 (Bankr. M.D. Fla. 2017) (Funk, J.)

The court refused to dismiss the debtor's single asset case (a church) as a bad faith filing under 11 U.S.C. § 1112 (b)(1) even though almost all the *Phoenix Picadilly* factors were present. The court also ruled the creditor was not entitled to relief from stay under § 362(d)(3). While an equity cushion existed, it was minimal; therefore, the court entered a separate order requiring adequate protection payments.

In re Thompson

2017 WL 3475011 (Bankr. M.D. Fla. Aug. 11, 2017) (Funk, J.)

Court dismissed Chapter 13 case under 11 U.S.C. § 1307(c) based upon bad faith in seeking to prolong litigation and failing to comply with virtually all the Court's directives in the case. Good faith is an implicit requirement when filing a case.

In re Oyola

571 B.R. 874 (Bankr. M.D. Fla. 2017) (Williamson, C.J.)

Even though debtor, who was not a citizen or lawful permanent resident, could not legally intend to reside here permanently, she was living as a "family in fact" with

Court Connection
Volume No. 6 – Issue No. 4
October 2017

her daughter. Because the debtor intended to make her home her family's permanent residence, the court ruled the debtor could claim the homestead exemption.

In re Crusaw

Case No. 3:16-bk-3105-JAF (Bankr. M.D. Fla. July 14, 2017) (Funk, J.)

Creditor and Chapter 13 Trustee objected to debtor's claimed homestead exemption. It was undisputed that debtor lived on the parcel for many years. The objectors argued that because debtor's parcel was subject to a judgment and the debtor did not legally own the property (it was the subject of a lengthy partition battle among several heirs) until after the judgment was recorded, the property did not qualify as homestead. The court overruled the objection, ruling that the debtor's ownership, while not fee simple, gave him the right to use and occupy the parcel and that he clearly intended to reside there for the rest of his life.

In re Migell

569 B.R. 918 (Bankr. M.D. Fla. 2017) (Jennemann, J.)

The mere fact that debtor received mail at Massachusetts house and filed a declaration of homestead in Massachusetts did not overcome the debtor's claim of the Florida homestead exemption. Debtor had resided in the Florida house for years and showed every intention to maintain the Florida house as his homestead.

In re Bhalla

573 B.R. 265 (Bankr. M.D. Fla. 2017) (May, J.)

Trademark and copyright infringement damages deemed nondischargeable under 11 U.S.C. § 523(a)(6).

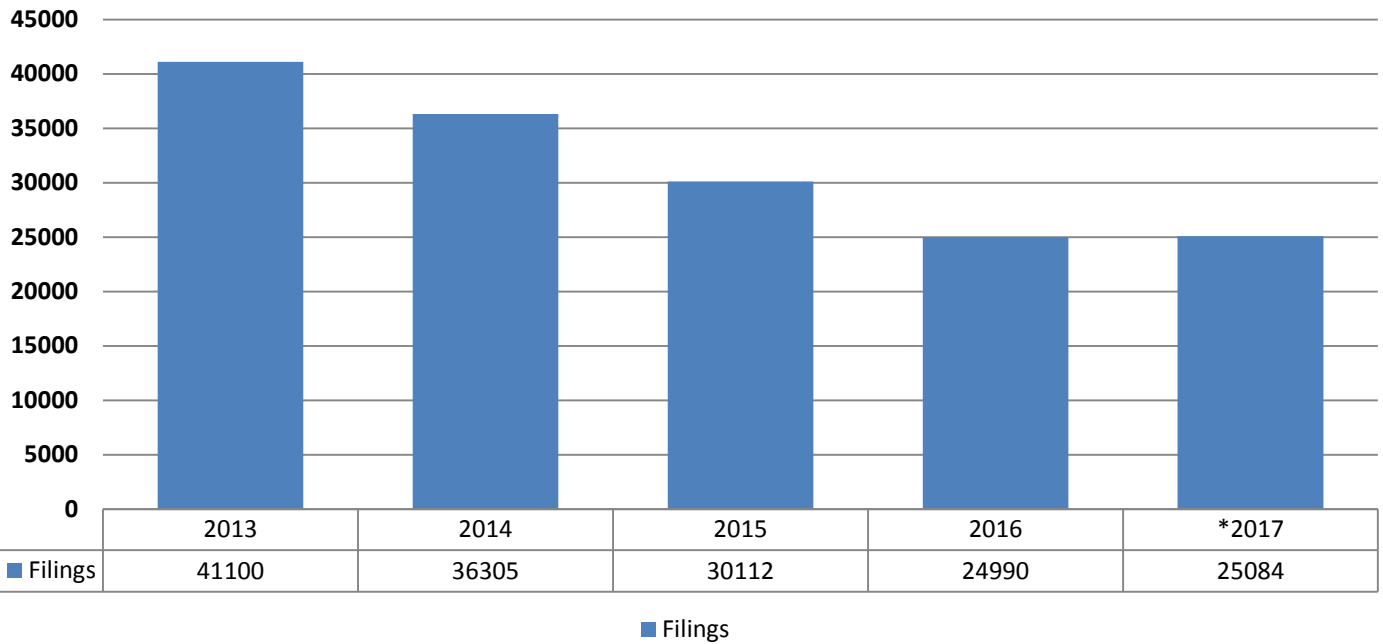
In re Fravala

2017 WL 3447936 (Bankr. M.D. Fla. Aug. 10, 2017) (Glenn, J.)

In Chapter 13 case, debt was excepted from discharge under 11 U.S.C. § 523(a)(3) because debtor did not notify creditor of bankruptcy until filing a suggestion of bankruptcy in state court three years after bar date for filing claims. A debtor claiming damages under § 362(k) has a duty to mitigate damages.

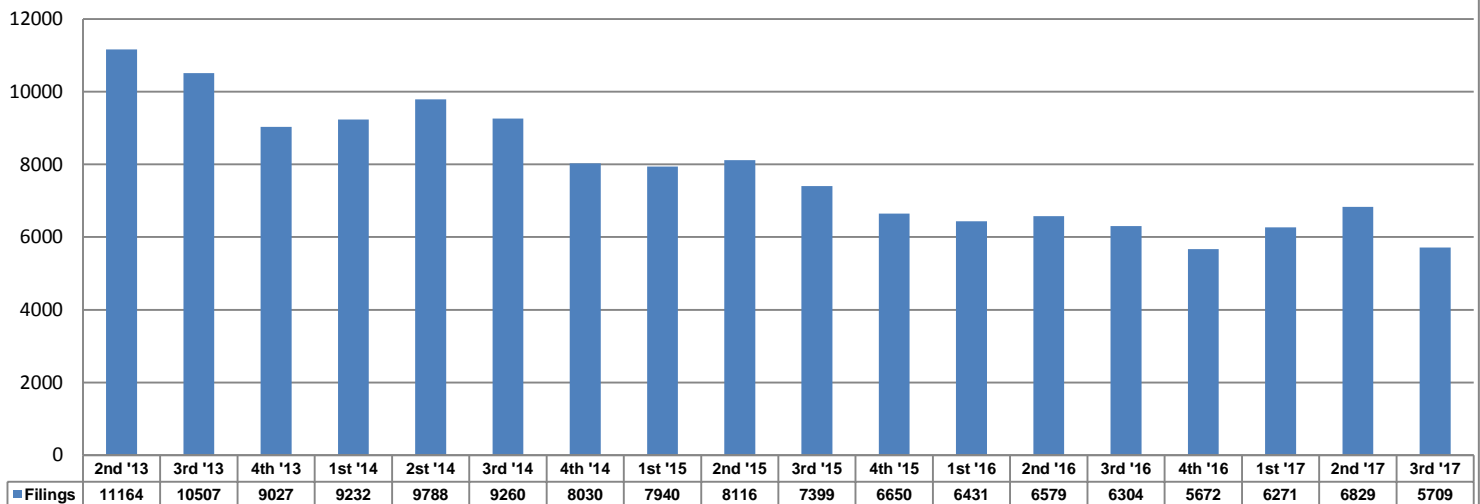
United States Bankruptcy Court - Middle District of Florida
Updated October 17, 2017 Meeting Data and Information
Statistics as of September 30, 2017

Annual Filings

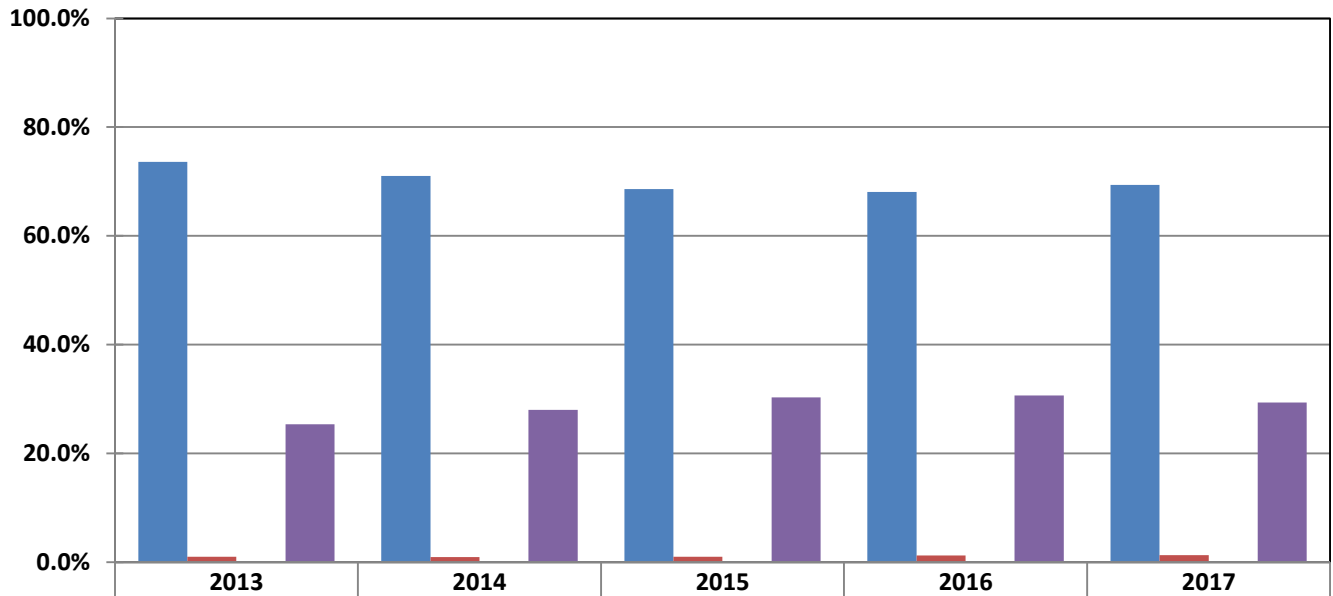


Year	Annual Filings	vs. 2013	vs. Prior Yr.
2013	41100		
2014	36305	-12%	-12%
2015	30112	-27%	-17%
2016	24990	-39%	-17%
*2017	25084	-39%	0%

Filings by Quarter

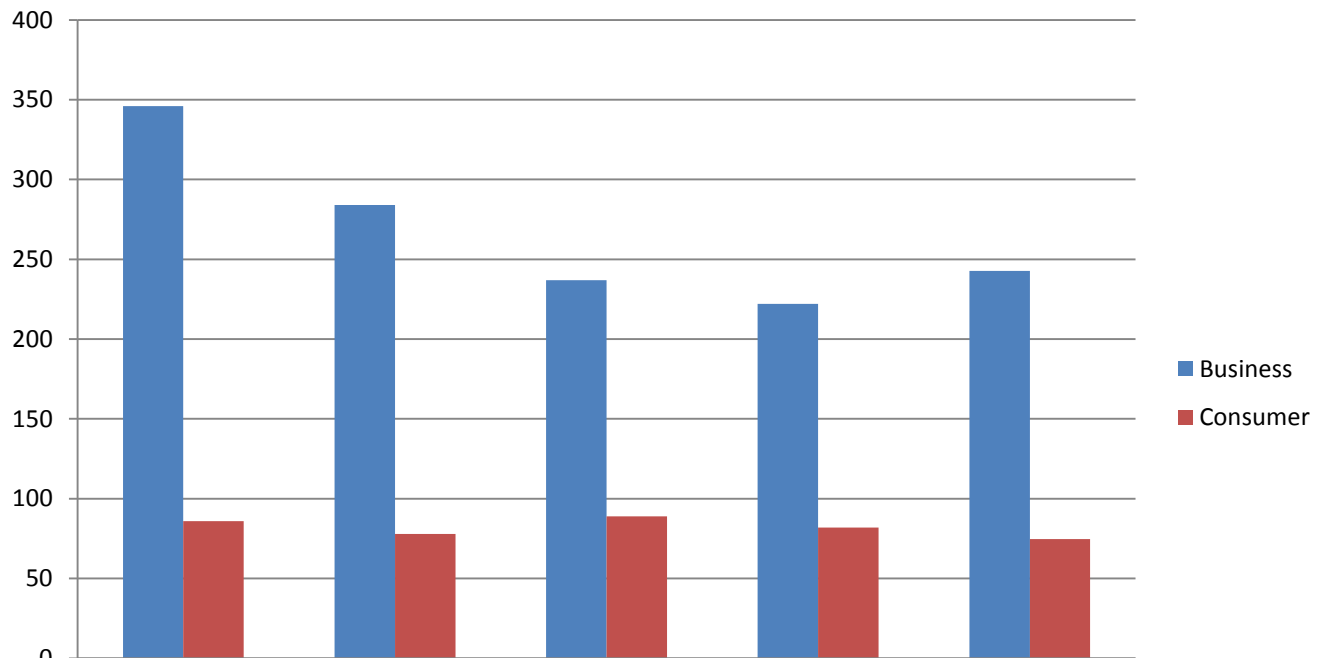


Filings by % of Chapter Type



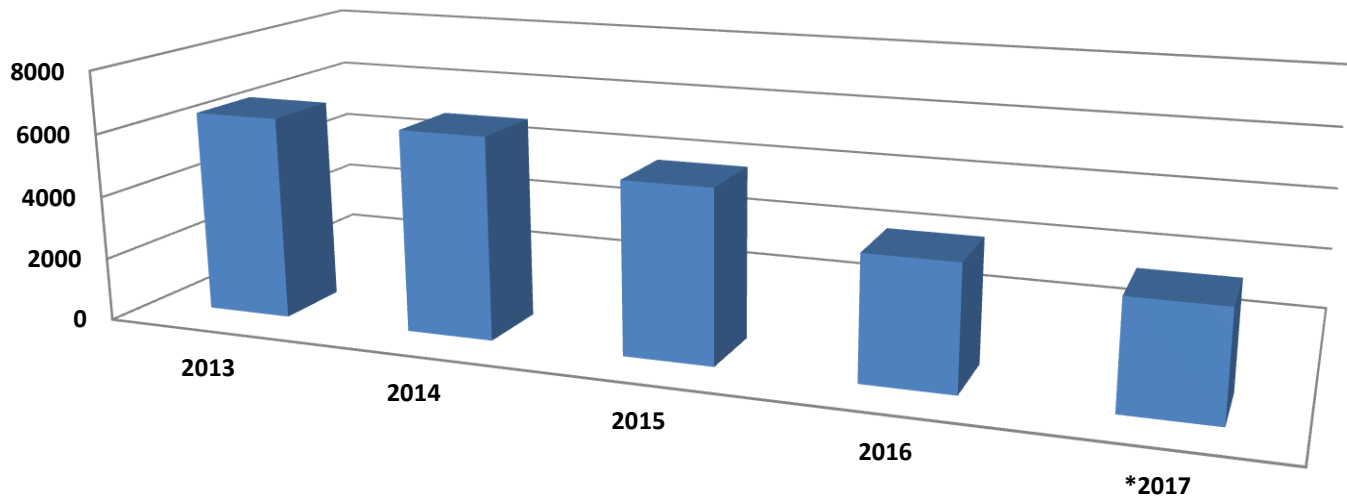
Chapter 7	73.6%	71.0%	68.6%	68.1%	69.4%
Chapter 11	1.0%	0.9%	1.0%	1.2%	1.3%
Chapter 12	0.0%	0.0%	0.1%	0.0%	0.0%
Chapter 13	25.4%	28.0%	30.3%	30.7%	29.3%

Chapter 11 Filings



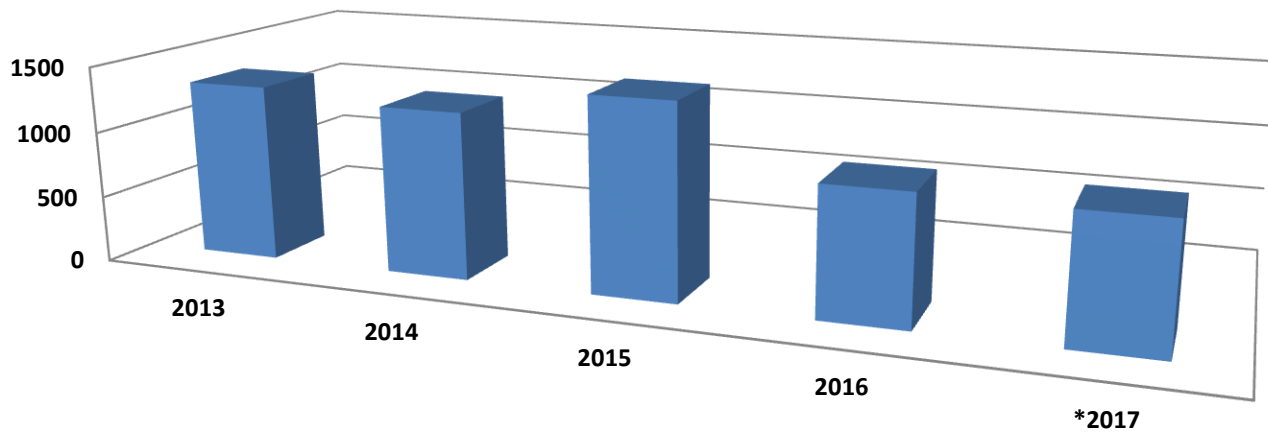
Business	346	284	237	222	243
Consumer	86	78	89	82	75

Pro Se Filings

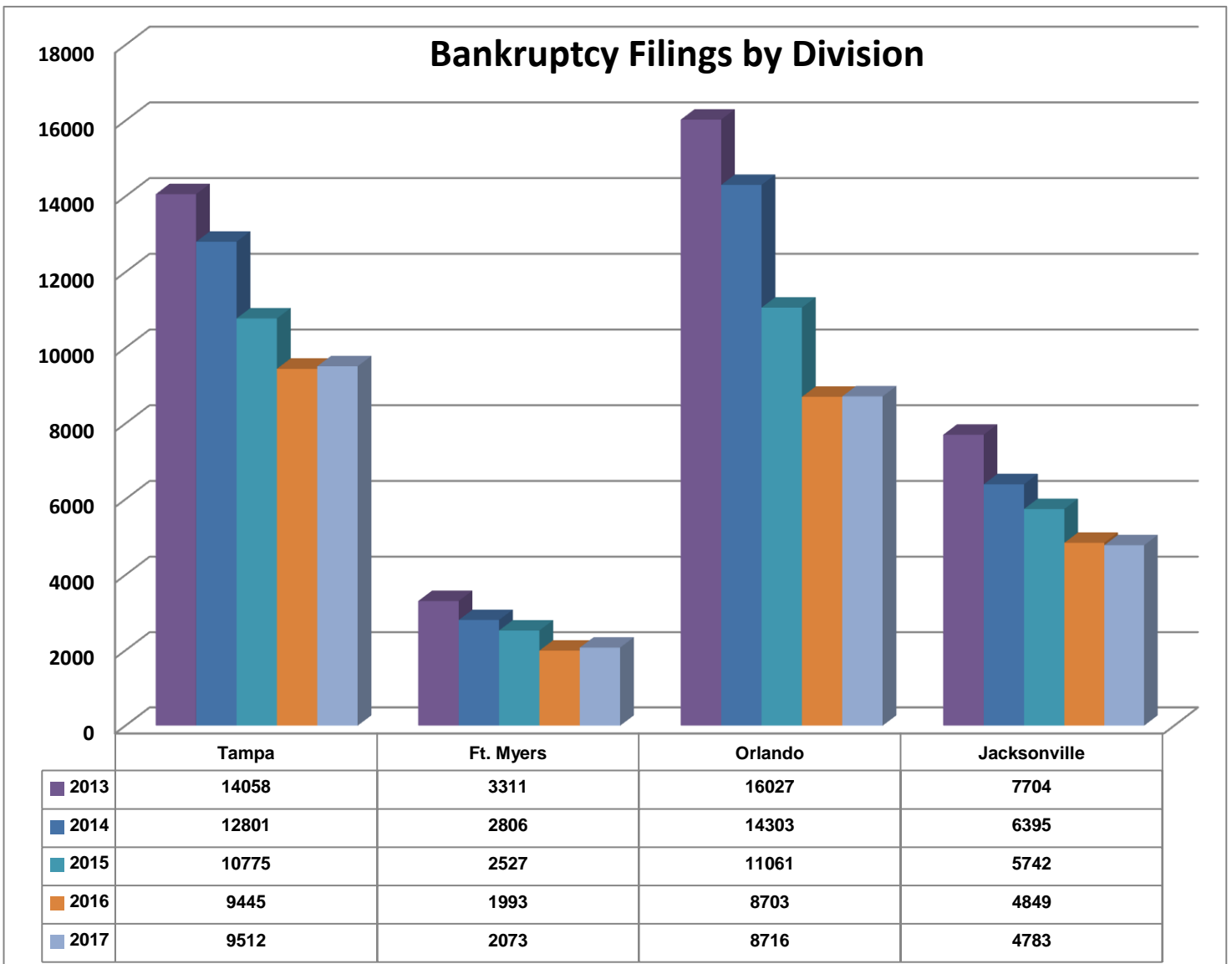


	2013	2014	2015	2016	*2017
Pro Se	6435	6387	5416	3902	3393
% of All Filings	16%	18%	18%	16%	14%

In Forma Pauperis Filings



	2013	2014	2015	2016	*2017
IFP Granted	1334	1256	1456	965	944
% of All Filings	3%	3%	5%	4%	4%



Note: 2017 Counts are projected totals.

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