

Above and Beyond the Call of Duty

By: Chief Judge Michael G. Williamson

In the October 2017 edition of the Court Connection, I expressed the Court's appreciation for our staff members who serve on one or more of the committees that Judge Jennemann created when establishing uniform procedures throughout the District (i.e., thinking "District Wide").

In this issue I would like to recognize five of our judges who contribute to the practice of bankruptcy law, either in our court or on a national scale, by volunteering for critical projects. Already burdened by substantial caseloads here in the Middle District, these five judges truly are going "above and beyond the call of duty."

We start with Judge Karen Jennemann, who, of course, was the progenitor of our current system of uniformity embodied in our motto, "One Court, One Team." It would have been both understandable and expected that when Judge Jennemann concluded her duties as chief judge, she would have handed off her role as the principal architect of our Procedures Manual, which is the veritable heart of "The Source"—a collection of resources the likes of which are not available anywhere else in our bankruptcy system.

The success of the Procedures Manual as a resource for practitioners can be measured by the number of times it has been accessed: In the Procedures Manual's first six months, the ten most frequently accessed procedures have been accessed over 14,000 times! For example, the procedures for motions for payment of unclaimed funds have been accessed 2,197 times, while the procedures for stay relief motions have been accessed 1,711 times. The impact Judge Jennemann has had—and continues to have—on our Court cannot be overstated.

Next is Judge Caryl Delano. As you all know, one of the byproducts of the streamlining of our procedures is the reworking of our administrative orders, local rules, and local forms. For this, our judges have collectively called on Judge Delano and her stellar drafting skills to give effect to any decisions we collectively make that require an administrative order or form to be rewritten.

Like Judge Jennemann and Judge Delano, Judge Cynthia Jackson has also made substantial contributions to our Court. As you may know, our Court has

routinely been ranked among the top districts in terms of pro se filings. Pro se filers typically face two major problems: lack of representation and an inability to fully participate in their cases because of language barriers. Judge Jackson has been instrumental in procuring funding for our pro se legal clinics, as well as for interpreter services, which should make it easier for pro se debtors to navigate their way through our bankruptcy system.

Finally, on a national scale, two of our judges have been appointed to important national positions. The first is Judge Catherine Peek McEwen, who last fall was appointed by Chief Justice John Roberts to serve as a bankruptcy judge observer at sessions of the Judicial Conference of the United States. For those of you who don't know, the Judicial Conference of the United States is the national policy-making body for the federal courts. It sits as a sort of super board of directors for our federal court system. Judge McEwen was appointed to a two-year term beginning on October 1, 2017.

The second is Judge Roberta Colton. As you know, the Commonwealth of Puerto Rico filed one of the largest "bankruptcy" cases in recent history. That case is pending in the United States District Court for the Southern District of New York before Chief U.S. District Judge Laura Taylor Swain. But cases that big can't be litigated; they require consensus. The Detroit bankruptcy case is a perfect example. That case was resolved through intense mediation with key mediators drawn from the judiciary. Following a similar approach, Chief Judge Swain has appointed a team of five judicial mediators drawn nationally from the ranks of Circuit, District, and Bankruptcy Judges, one of whom is Judge Colton. Judge Colton will spend about half of each month in New York involved in intensive mediations for what no doubt will be many months to come.

We are fortunate to have judges who not only process and decide bankruptcy cases with fairness, impartiality, and excellence, but who are also willing to go above and beyond the call of duty.

Court Hosts Franklin Boys Prep Academy

By: Judge McEwen

In coordination with the George Edgecomb Bar Association's Role Model Committee, Judge McEwen's chambers arranged a courthouse visit early this month for 15 young men from Franklin Boys Prep Academy, a public single-gender, college preparatory middle school. The group was comprised of 6th through 8th graders.

The kids started their courthouse tour with a sentencing hearing before District Court Judge Charlene Honeywell. The defendant had been convicted of cocaine possession. The students watched intently as they learned that the defendant had at least three prior convictions for various crimes in another state. Because the attorneys were not prepared to tell the judge how the other state categorized the crimes for purposes of sentencing enhancement, she brought the attorneys up to sidebar to gently "fuss" at them (a good lesson for the students about being prepared) and continued the sentencing hearing to another day. After the hearing, Judge Honeywell stepped into the well of the courtroom to talk to the students about the dangers of drugs and other issues that could lead to failure. She also emphasized behaviors that could lead to success, such as staying in school and studying, and she spoke on what it takes to be a lawyer.

The next stop was the U.S. Marshal video command post followed by the 16 historical and civics displays located in the building's atrium and on the third-floor. After that, the kids went to Judge McEwen's courtroom for a meeting with District Judge Mary Scriven, who reinforced the life lessons imparted by Judge Honeywell. Judge Scriven spoke about how to grow up the right way, never to give up, and to choose a future in which "your vocation should be your avocation --- which means if you do something as your job, that 'something' you are truly passionate about, your work should feel like your play." Judge Scriven was particularly persuasive in advising the students about how imprudent conduct, including using drugs and even poor judgment in social media posts, can eliminate career choices. Judge McEwen then gave the kids a two-pronged civics lesson on the judiciary, stressing the importance of judicial independence and that we are a co-equal branch of government that should be defended against attacks from the other branches. (She also fielded questions about the array of sports stuff on her bench.)

The students' final two stops were equally interesting and satisfying. What middle school boy doesn't want to see (and be locked up in) a courthouse holding cell --- so long as it's not for the real reason lock-ups exist? The students grew a little pensive, though, when they asked where the prisoners slept while there, noticing the absence of beds. "They don't," was the Court Security Officer's answer. If you've never seen a holding cell in our building, it's furnished with immovable metal

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benches and one molded-metal, integrated sink-toilet combination with no rim or lid. The only moveable item in the cell is a roll of toilet paper.

The last stop was a pizza lunch in the jury assembly room, with a twist: presentations regarding some non-lawyer jobs within the court system. We heard from Pamela Thompson, District Court Jury Administrator; Dario Pavic, our Facilities Coordinator, whom we share with the District Court (and who speaks five languages fluently, after having come to the U.S. with \$40 in his pocket from former Yugoslavia, not knowing English, and starting out as a dishwasher); Brian Harrison, District Court IT Project Manager; and Joely Andrews, Pretrial Services Supervisor, who caught the students' attention with her urine-test kit and ankle monitor. Along the course of the half-day, the students also learned about the career path of Court Security Officers Eddie Watts and Nona Dyess.

Each student took home a glossy AO publication titled Understanding the Federal Courts (now out of print, so perhaps they qualify as collectibles!). Hopefully they flipped through the booklet on the bus back to school instead of rolling them up to bop each other on the head, as some did as they headed out to the bus. Boys will be boys.

The Court thanks the GEBA and other volunteers who chaperoned and helped organize the event, especially Assistant State Attorney Travis Coy, Judge Honeywell's law clerk Joseline Hardrick, and Chambers 8B J.A. Dedra Gann, for providing a memorable experience for the young fellows.

If anyone is interested in planning a courthouse tour or an in-school visit for other school kids, please feel free to contact Judge McEwen for tips, including an introduction to the many civics resources located at the Federal Judges Association Civics Education Toolkit website, a collaboration of the FJA, the National Conference of Bankruptcy Judges, and the Federal Magistrate Judges Association.



Judge Honeywell and Franklin teacher Cindy Davis (back row far right) take a seat with the students.



Judge McEwen talks to the students about our historical exhibits, including one about how it took a federal judge to stop our state's governor from frustrating integration of the Manatee County School District some 16 years after *Brown v. Board of Education of Topeka*.



Judge Scriven enjoys her visit with the students.

FLMB's Mortgage Modification Mediation Program Featured in Bloomberg

By: Honorable Karen S. Jennemann and Danielle L. Merola

Bloomberg BNA Bankruptcy Law Reporter recently published an article praising this Court's Mortgage Modification Mediation Program (MMM). Author Daniel Gill mentioned the program is working well with a much higher success rate compared to the Florida state court foreclosure mediation programs. Some folks specifically deserve our thanks for the program's well-deserved nationwide praise, particularly the Orlando Chapter 13 Trustee's office, Tammy Branson, Bob Branson, and Liz McCausland. We spoke with each of these folks to get their take on the why our MMM program succeeded where others flounder.

Steve Wood from the Chapter 13 Trustee's office reports that since the start of the program in 2010, close to 4,000 loans have been successfully modified in Orlando. As of March 2018, about 67% of completed mediations have succeeded.

The Court's MMM program was born during the great recession starting in 2007. Debtors were coming to bankruptcy court and asking for continuances because they were still in a temporary loan modification and trying to negotiate a final modification with their lenders. **Liz McCausland**, a frequent mediator and President of the Orange County Bar Association, recalled that one debtor was in a trial modification program for a year, but he could not secure a permanent loan modification. He needed a more effective system. **Laurie Weatherford**, the Chapter 13 Trustee in the Orlando Division, remembers one specific confirmation hearing in 2009 that inspired the creation of the MMM program. After months of complying with all the requirements of a temporary loan modification, the Debtor was refused a permanent modification for no logical reason. Everyone involved in the Chapter 13 process was frustrated. One of our local creditor lawyers, **Lorne Durket**, mentioned the program in state court where parties mediated loan modifications and suggested that our bankruptcy bar revise it to make it more effective in bankruptcy.

After that confirmation hearing, the Chapter 13 Trustee's office and a group of attorneys got together and worked on a solution. The goal was to have all interests represented—creditors, debtors, the Chapter 13 Trustee, and mediators. These people worked hard, brainstormed ideas, and developed initial procedures. The Court's first form Order Directing MMM was created in 2010, but the Order has gone through many changes over the years to address problems and issues encountered in implementing the program. Chapter 13 Trustee attorney **Ana De Villiers** recalled that one of the biggest changes (and improvements) was when the Order was amended to provide that someone with authority to settle, be at the mediation. Now, Debtors could not be denied a loan modification without understanding the reason.

The Chapter 13 Trustee's office also sponsored several intense trainings during the beginning stages of the program to teach practitioners how to do loan modifications. Others paid attention.

The cost of the program is low, and the success rate is high. Communication is key to the program's success. **Tammy and Bob Branson**, who help Debtors through the MMM process and who provide seminars on the program across the country, told us that one of the greatest achievements of the program is that debtors are told exactly *why* they are denied a loan modification. Sometimes debtors can make changes based on the reasons provided, and then the loan modification succeeds.

This success is largely because of the open dialogue in the portal. When the portal was instituted, it streamlined the process. Debtors can upload the documentation to the portal, and banks have easy access to the information in one central location. There is also a record of what debtors provide. Other mediation programs still operate in paper, and a ton of clerical work may lead to problems. Liz McCausland and Ana De Villiers told us they had to fax documentation late at night because banks required that borrowers fax paperwork, and the one provided fax number was constantly busy. The portals eliminate those issues. Parties can get results faster. And lenders cannot "lose" the paperwork!

The mediation also is confidential and takes place away from the Court. Tammy Branson tells us that parties can talk more openly and directly because of this confidentiality. Although HAMP expired December 2016, the Bransons tell us that many banks are offering in house modification programs that mirror the HAMP guidelines. Even lenders now embrace the program, which is demonstrated by the high success rate.

In 2014, Orlando hosted a state wide summit on MMM inviting lenders across the country, all the bankruptcy judges in Florida, and many mediators and lawyers. Later, a nationwide summit on MMM was also held. Liz McCausland tells us that although there is still no nationwide uniformity, other courts have shown a great interest in the Middle District's MMM program. And Florida has become mostly uniform in MMM.

Many thanks to all parties involved that made the Court's program a success and a model for other courts across the country.

The Bloomberg article can be read here:

Daniel Gill, *Orlando's Mortgage Mediation Program a Success, Model for Others*, Feb. 1, 2018.

Link: <https://www.bloomberglaw.com/document/XBB6GNN0000000?emc=bnabky:1>

Other articles of interest:

Guiding Principles for the Future of Loss Mitigation: How the Lessons Learned from the Financial Crisis Can Influence the Path Forward, White Paper prepared by the U.S. Department of the Treasury with the U.S. Department of Housing and Urban Development and the Federal Housing Finance Agency, July 25, 2016. Link: <https://www.treasury.gov/press-center/press-releases/Documents/guiding-principles-future-of-loss-mitigation.pdf>

Daniel Gill, *Bankruptcy Court's Mortgage Mediation Program a Success*, Feb. 24, 2017. Link: <https://www.bna.com/bankruptcy-courts-mortgage-n57982084348/>

Christopher S. Baxter & Bryan J.K. Sisto, *The Southern District of Ohio Looks to Florida's Example While Considering Whether to Implement Mortgage Modification Mediation*, American Bankruptcy Institute, July 19, 2016. Link: <https://www.abi.org/committee-post/the-southern-district-of-ohio-looks-to-florida%E2%80%99s-example-while-considering-whether-to>

Make Me Smile Moment

Submitted by Judge McEwen

One morning Lynn Sherman was minding her own business up in the 9th floor attorney lounge at the Tampa courthouse, preparing for a hearing, when a woman walked in and sat down. Lynn transformed from minding her own business to becoming mindful. Upon observing that the woman appeared to be waiting for someone or maybe just plain lost, Lynn inquired whether she could help her. Armed with a Rx sheet from Judge McEwen (prescribing issues requiring attention), the woman stated she was there for the Tampa Bay Bankruptcy Bar Association's free courthouse clinic. Problem was, it was the wrong day (Tuesday) and the wrong time (the clinic is open Monday and Wednesday afternoons). Lynn, always attuned to pro se's in need (you should see her antenna rise while watching unrepresented consumers in the courtroom), shrugged off the formalities of the clinic hours and stepped up to handle the woman's multiple issues that morning.

TBBBA HONOR ROLL FOR JANUARY, FEBRUARY, & MARCH

High fives to all who made the Tampa Courthouse Clinic a success in the first quarter 2018!

Attorney
DeLeon, Robert (15 hours!)
Barnett, Michael (10 hours!)
Petry, Kelley
Dammer, Samantha
Sierra, Tim
Barksdale, Eric
Case, Kenneth
Dionisio, Kim
Fogarty, Daniel (SRBP)
Stichter, Scott (SRBP)
Anton, Becky Ferrell (SRBP)
Freeman, Thaddeus
Hale, Matthew (SRBP)
Hart, Barbara (SRBP)
Hooi, Michael (SRBP)
Lim, Angelina
Murray, Megan
Oguntebi, Fehintola
Robens, Mark (SRBP)
Sharp, Susan (SRBP)
Smith, Amanda
Standley, Harrison

Note the number of Stichter Riedel lawyers! Thanks, SRBP.

Procedures Committee Update: FLMB's Resource Hub—The Source

The quarterly update to The Source will occur in April and will primarily focus on the Procedure Manual. The content of this update will include adding seven new procedures, updating existing procedures, and revising the sample motions included in some procedures.

The new procedures are about closing an adversary proceeding, dismissing an adversary proceeding, becoming an electronic filer, Chapter 13 form plans, motions for adequate protection, health care cases, and fees in Chapter 13 cases.

Many of our updates to existing procedures were born out of comments or suggestions received to the Procedure Manual Committee email address—thank you for your continued help in making this project a success.

The last issue of the Court Connection indicated that updates to The Source will occur on a quarterly basis. These updates will revolve around the issue dates of the Court Connection; the next updates should occur on July 13, 2018, and October 12, 2018.

Please contact the Procedure Manual Committee with your questions, concerns or suggestions for new procedures at: flmb_procedures@flmb.uscourts.gov.

Kevin E. Mangum Memorial Volunteer Service Award

By Camila Bersani, Danielle Merola, and Garry Louima

On January 25, 2018, the Central Florida Bankruptcy Law Association (“CFBLA”) conferred the first Kevin E. Mangum Memorial Volunteer Service Award at the CFBLA Monthly Luncheon to Alec Solomita. The award was established in memory of Kevin E. Mangum, who passed away in October of 2016. Mangum is survived by his loving wife Jamie Yasko-Mangum and his two sons Stone Mangum and Spencer Mangum.

Mangum was born in Jacksonville, Florida, on April 23, 1966. He earned his Bachelor’s degree and J.D. from Florida State University. After clerking for Judge Killian in the Bankruptcy Court for the Northern District of Florida, Mangum went to practice for Giles & Robinson; Meininger, Fisher & Mangum; Mangum & Associates; and Mateer & Harbert.

Mangum represented debtors and creditors in all chapters of the Bankruptcy Code. He mediated several federal cases and shared his expertise with the legal community through various speaking engagements covering topics in bankruptcy, tax, and real estate. In addition to his outstanding resume, work ethic, and commitment to his family and colleagues, Mangum believed in and embodied the spirit of community service. He served as a Guardian *ad Litem* and assisted *pro se* litigants even before the Bankruptcy Court’s Pro Se Clinic was established. At CFBLA, he served as a director and social chair.



Pictured above: Michael Paasch and Alec Solomita

CFBLA presented the Kevin E. Mangum Memorial Volunteer Service Award to Alec Solomita, the attorney who has worked the most hours at the Pro Se Clinic over the last year. Born in New York, Solomita moved to Orlando at eighteen. He received

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his undergraduate education from the University of Central Florida and completed his legal education at Barry University's School of Law. He practiced bankruptcy law at Fisher & Furmer before opening his own practice in the UCF area.

Solomita has exemplified commitment to the community by providing service to *pro se* debtors who need help through their bankruptcy journey.



Pictured above: Michael Nardella, Alec Solomita, and Michael Paasch after presentation of the award.

Central Florida Bankruptcy Law Association

By: Michael Anthony Nardella, Esquire

Thursday, April 12, 2018

IOA Corporate 5K

On Thursday, April 12, 2018 at 6:45 pm, Lake Eola was known as “Orlando’s largest office party!” where teams run or walk 5 kilometers (3.1 miles). CFBLA had a tent with refreshments and chairs. The IOA Corporate 5K benefits the Track Shack Foundation, Second Harvest and Christian Service Center.

Thursday, May 17, 2018

CFBLA Annual Seminar and State of the District

The 2018 CFBLA Seminar will be held at the Citrus Club in downtown Orlando on Thursday, May 17, 2018 and will feature Chief Judge Michael Williamson presenting the Annual State of the District as the keynote lunch presentation – included at no extra charge with your Seminar registration! In addition, the Seminar will include insightful and broadly applicable CLE presentations such as (1) a panel discussion of hot topics in bankruptcy law with Florida bankruptcy judges participating; (2) a panel discussion of key bankruptcy case law in the 11th Circuit and Florida courts affecting Central Florida bankruptcy practitioners; (3) a rapid-fire debates session on disputed bankruptcy issues; and (4) a discussion of what you need to know in the E-Discovery arena – among others.

Upcoming Bar Events

Fort Myers

- April 19 @ noon SWFBPA meeting – Judge Williamson’s State of the District
Location: Federal Courthouse Building, 2nd floor, Jury Assembly Room
- May 24 and
June 21 @ noon SWFBPA meetings
Location: Federal Courthouse Building, 2nd floor, Jury Assembly Room

Orlando

- May 17 CFBLA Annual Seminar – Judge Williamson’s State of the District
9:00 am - 5:00 pm Location: Citrus Club

Tampa

- April 20 Florida Bar Business Law Section Bankruptcy/UCC Committee
8:30 am - 4:30 pm Spring Program – Article 9 of the UCC, Avoiding Collateral Damage
Location: Marriott Waterside
- April 27 TBBBA Annual Golf Tournament
Location: MacDill AFB
- May 1 @ noon TBBBA Consumer Lunch – featuring Judge Williamson – Effective Motion Practice
Location: Sam M. Gibbons U.S. Courthouse 5th Floor Training Room
- May 8 @ noon TBBBA CLE Luncheon
Location: University Club
- June 6 TBBBA Annual Dinner and Officer Installation
Location: Palma Ceia Golf & Country Club

Jacksonville

- April 24 Federal Bar Association Jacksonville Chapter 15th Annual Nimmons
12:00 pm Federal Practice Seminar and Reception
Location: Bryan Simpson U.S. Courthouse

August 17 JBBA Annual Seminar
 Location: Marriott Sawgrass

Other Events of Note

June 13-16 Florida Bar Annual Meeting
 Location: Hilton Orlando Bonnet Creek

Summer 2018 Federal Bar Association, Tampa Chapter, Bankruptcy
 Committee Seminar – Pathway to the Bankruptcy Bench:
 Building a Pipeline

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TBBBA 20TH ANNUAL GOLF TOURNAMENT

MACDILL AFB – SOUTH COURSE

FRIDAY, APRIL 27, 2018



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heavy hors d'oeuvres, prizes and more!



LAW DAY EVENTS AROUND THE DISTRICT

[Clearwater Bar Association Law Day Luncheon](#)

May 11 @ 11:30 a.m. - Safety Harbor Resort & Spa

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

May 9 @ 12:00 p.m. - Hilton Tampa Downtown

[Jacksonville Bar Association Law Day Luncheon](#)

May 2 @ 12:00 p.m. - Hyatt Regency

[Lee County Bar Association Law Day Awards Ceremony and Luncheon](#)

May 4 @ 11:30 a.m. – Sidney and Berne Davis Art Center

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

May 4 @ 11:20 a.m. - Mirror Lake Lyceum

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

May 4 @ 5:30 p.m. - Heathrow Country Club

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

May 3 @ 12:00 p.m. - Verizon Event Center



JUDGES' CORNER



Rays Superfan Judge McEwen was surprised to learn, through many text messages from observant friends, that she had made a Rays baseball TV spot. She appears at the end of the team's 20th anniversary video. Here's a freeze frame (courtesy of eagle-eyed CSO Willie Harrison).

Dear Point and Click, I have some questions about signature requirements for the Court's electronic filing (CM/ECF) System.

Question 1: Am I required to include a scanned image of my signature when filing a document electronically?

Answer 1: You are not. Local Rule 1001-2 addresses filing requirements for the court's Case Management and Electronic Case Filing System (CM/ECF). Paragraph (e)(1) of the Local Rule addresses signature requirements. The rule specifies that the CM/ECF user's login and password serve as the attorney's signature. However, the name of the filing attorney whose login is being used must appear on the signature line, preceded by "/s/."

Question 2: I received a call that my signature does not match the login. What does this mean?

Answer 2: The electronic signature requirements for the filing attorney in Local Rule 1001-2 include two elements, both of which must be present to have an appropriately signed, electronically filed paper. First, the login and password act as a signature, and second, the name of the filing attorney must appear on the signature line, preceded by "/s/." When the attorney's login is used for filing and does not match the name that appears on the signature line, the electronically filed paper does not meet both of the Local Rule's signature requirements. When such a situation occurs, you may be requested to refile the paper using a login that matches the name on the signature line or refile the paper with a name on the signature line that matches the login being used.

Question 3: What about client signatures?

Answer: Attorneys may file papers, signed by their clients, by including a scanned paper bearing the client's signature or, subject to the retention requirements of paragraph (f) of Local Rule 1001-2, by typing the client's name preceded by "/s/" where the signature would otherwise appear.

Question 4: Are there provisions that address papers that require more than one signature such as consent motions?

Answer: Yes, Local Rule 1001-2(e)(3) addresses this issue. Electronic papers that require the signature of more than one party may be filed by submitting a scanned document that contains all of the required signatures or by including an attestation that consent has been obtained from each of the parties whose electronic signature appears on the document. The attestation may be included after the signature block of the additional signatory or may be attached as a declaration. An acceptable form of attestation is: “Filer’s Attestation: Pursuant to Local Rule 1001-2(e)(3) regarding signatures, [name of filing attorney] attests that concurrence in the filing of this paper has been obtained.”

CASE LAW UPDATE FOR Q2 2018

Submitted by:

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

Supreme Court Cases

U.S. Bank v. Village at Lakeridge, LLC

138 S.Ct. 960 (2018)

The Supreme Court determined that the appropriate standard of review for “insider” status – as mixed issue of law and fact – is clear error. The opinion appears to be limited to this standard of review issue.

Merit Mgmt. v. FTI Consulting, Inc.

138 S.Ct. 883 (2018)

Section 546(e) “securities safe-harbor” only applies to overarching transaction and does not save ultimate transferee from liability simply because intermediate transfers were between financial institutions. Thus, Supreme Court held that safe-harbor did not protect seller of stock that received \$16.5 million as part of transaction, which trustee of litigation trust sought to avoid as constructively fraudulent.

Eleventh Circuit Cases

Beem v. Ferguson

713 F. App’x 974 (11th Cir. 2018)

Creditor’s motion to dismiss case, with alternative asking to find debt nondischargeable, was sufficient to permit relation back once discharge deadline expired. Creditor also entitled to preclusive effect of abuse of process judgment from state court.

Bankruptcy Court Cases

In re Rome

2018 WL 1631251 (April 2, 2018) (Jennemann, J.)

Bankruptcy Court denied discharge under Sections 727(a)(3), (4), and (5). “Former business partners and the United States Trustee contend the Debtors should not receive a discharge of their debts under various provisions

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of the Bankruptcy Code because they hid assets before and during this bankruptcy case, failed to keep or withheld business records preventing the parties from determining the Debtors' true financial condition, cannot explain their loss of assets, and lied on their bankruptcy pleadings. Debtors vehemently deny these allegations arguing failed businesses, a fire, a computer crash, multiple foreclosures, and in Mr. Rome's words, 'hookers and blow,' caused their financial decline and inability to produce any meaningful financial records. After a multi-day trial, the Court finds that the Debtors are not entitled to a discharge...."

In re Doganis**Case No. 3:17-bk-3086 (March 14, 2018) (Glenn, J.)**

Chapter 13 debtor did not file his case in bad faith, and the bankruptcy court denied the creditors' motion to dismiss. This was the debtor's first bankruptcy case. Although the debtor's schedules that he prepared pro se were incorrect, the debtor hired an attorney after filing and the schedules were corrected. The bankruptcy court also found that the debtor's proposed plan to pay secured creditors, including the creditors seeking dismissal, was an indicator that the debtor was not acting in bad faith.

In re McHale**Case No. 6:10-bk-02527, Doc. No. 80 (March 9, 2018) (Jennemann, J.)**

Bankruptcy court denied creditor's motion to reopen Chapter 7 bankruptcy case – so creditor could compel surrender – six years after discharge, four years after the debtor died, and three and a half years after creditor filed foreclosure.

In re Seguinot**Case No. 6:10-bk-05336, Doc. No. 34 (March 9, 2018) (Jennemann, J.)**

Creditor moved to reopen Chapter 7 bankruptcy case in 2017. The court granted creditor's motion to reopen and compel surrender. Debtors had surrendered property in the case, were not current when bankruptcy case was filed, and had not made a payment since March 2010. Debtors defended foreclosure action filed in 2014 and argued that defenses arose post-petition. .

In re Holland**Case No. 6:13-bk-14751, Doc. No. 119 (March 8, 2018) (Jennemann, J.)**

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Bankruptcy court granted creditor's motion to reopen Chapter 13 bankruptcy case and compel surrender. Debtor surrendered property in confirmed Chapter 13 plan, defended foreclosure action, then "changed his mind" and

filed a new Chapter 13 case proposing to pay the creditor in full. Under the circumstances, bankruptcy court did not allow debtor to change his mind.

In re Advanced Telecommunication Network, Inc.

Case No. 6:05-ap-00006, Doc. No. 304 (January 31, 2018) (Jennemann, J.)

- [Doc. No. 304] Collateral estoppel does not establish debtor's insolvency established in other litigation when defendant was not a part to that litigation.
- [Doc. No. 303] Defendant/transferee could not rely on "mere conduit" defense when facts at summary judgment indisputably demonstrated that transferee objectively had knowledge of the debtor's unfavorable financial condition.
- [Doc. No. 300] Contractual indemnity, and disputes surrounding it, precluded summary judgment concerning reasonably equivalent value aspect of transferee's defense.

In re Murphy

Case No. 9:17-bk-07843-FMD (Bankr. M.D. Fla. January 18, 2018) (Delano, J.)

The court addressed the attorney-client privilege relating to certain documents subject to discovery requests. First, the court found that the privilege was not destroyed where a third party was copied on the communication if that party is an agent of the client. Next, the court concluded that the privilege was not waived due to the inadvertent disclosure of a small number of documents where the attorney showed that he took adequate steps to prevent disclosure of privileged information, and he acted promptly in sending a claw back letter.