

IN MEMORIAM

THE HONORABLE PAUL M. GLENN, JR.
UNITED STATES BANKRUPTCY JUDGE
February 25, 1945 – July 7, 2019

By: Hon. Caryl E. Delano

The bench and bar of the Middle District of Florida mourn the passing of Judge Paul M. (“Bill”) Glenn. On July 13, 2019, Judge Glenn’s life was celebrated at a memorial service in Jacksonville, attended by judges, Court staff, practitioners, family, and friends. He is survived by his wife, Karen, his children, Claire, Catherine, Jill, Christopher, and Kevin, and four grandsons.

Judge Glenn received his undergraduate degree *cum laude* from Florida State University, where he was elected to Phi Beta Kappa. Although he had been accepted at Harvard University, Judge Glenn chose to attend FSU in order to play basketball on a basketball scholarship. In his senior year, he was selected as the Most Valuable Player of the varsity basketball team. Judge Glenn’s team was described by Pat Conroy in the bestselling autobiographical novel, *My Losing Season*. Judge Glenn graduated from Duke University School of Law in 1970, where he was president of the Law School’s student body.

During the 1970’s Judge Glenn practiced corporate, commercial, banking, and insurance law in Jacksonville and Miami. In the 1980’s he served as the chief executive and chief administrative officer of two insurance companies, and in the early 1990’s he returned to private practice. In 1993, Judge Glenn was appointed as a United States Bankruptcy Judge for the Middle District of Florida, Tampa Division.

In June 2008, Judge Glenn transferred from the Tampa Division to the Jacksonville Division. From March 2003 to September 2011, he served as Chief Bankruptcy Judge for the Middle District of Florida. Judge Glenn presided over many notable cases including Celotex Corporation, Amelia Island Plantation, and Sawgrass Marriott Golf Resort & Spa. In 2013, Judge Glenn was appointed to the Committee on the Budget of the Judicial Conference of the United States, on which he served until 2017.

Judge Glenn was active in local, state, and national bar and professional activities, including the National Conference of Bankruptcy Judges. He served as the NCBJ's Director of the Endowment for Education, and as member of the Finance Committee, the Budget Policy Committee, the By-Laws Committee, the Outreach Committee, and the Next Generation Planning Committee.

In March 2005, Judge Glenn was inducted as a Fellow in the American College of Bankruptcy, and in May 2007, he was honored by the Hillsborough County Bar Association with the Robert W. Patton Outstanding Jurist Award.

Judge Glenn was also active in the American Inns of Court. He served as President of the Ferguson-White American Inn of Court in Tampa and of the Chester Bedell American Inn of Court in Jacksonville. In 2010, Judge Glenn was elected to the National Board of Trustees of the American Inns of Court Foundation. In 2014, Judge Glenn received the Distinguished Service Award from the Bankruptcy Inn Alliance of the American Inns of Court at the National Conference of Bankruptcy Judges.

Judge Glenn's numerous accomplishments and honors are overshadowed by his contributions to our Court. He set an example for judicial professionalism, scholarship, and integrity that his colleagues strive to emulate.

Upon learning of Judge Glenn's passing, **Chief United States District Judge Steven Merryday** commented that "Bill's friendship was one of the singular rewards I have had during my term of service on the Court." Judge Merryday also noted that "during his 25 years of distinguished service, Judge Glenn brought to the Court kindness, enduring tranquility, and studied intelligence, for which both the Court and the community are grateful."

Chief Judge Michael Williamson described Judge Glenn as a "a kind and gracious person. In the 25 years I knew him, from my days as an attorney appearing before him to my days as a colleague on the bench, I never heard him utter an unkind word about anyone. Not surprisingly, when he became chief in 2003, he led us into a new era of civility and collegiality that has endured. His soft manner belied his ability to make difficult decisions—typically in rulings from the bench immediately following the close of evidence—which he would work up on his legal pad while we all looked on waiting in anticipation for an answer to the issues presented to him. And answer he

did—in so many cases ruling immediately from the bench—explaining his rulings in a fashion that, while some may not have achieved their objectives, all understood the well-reasoned analysis that supported his rulings.”

Judge Karen Jennemann recalls that she, Judge Glenn, and Judge Jerry Funk were all appointed as bankruptcy judges at the same time. In fact, they shared an investiture ceremony. Judge Jennemann commented that “Judge Glenn’s passing truly is the end of an era for me. When we were appointed in 1994, I was a ‘kid,’ but Bill was our moral compass and ‘patriarch.’”

Just a few weeks ago, **Judge Jerry Funk** and Judge Glenn celebrated their combined 50 years on the bench with Jacksonville Court staff. Judge Funk, who worked with Judge Glenn in Jacksonville for the past 11 years, says that Judge Glenn was a wonderful colleague and that his calming influence will be greatly missed.

Judge Glenn’s family asked **Judge Catherine McEwen** to speak at his memorial service. Her moving tribute included the following:

A decade ago, I sent Judge Glenn an email telling him that I consider him to be the “Real Renaissance Man” and that that would be the title of my speech about him when he retired.

Bill had considerable, considerable gifts —

the gifts of a keen intellect; curiosity; unparalleled patience; gentleness; generosity of his time, talent, and treasure; perception and focus; a mathematical mind that loved to reconcile statistics and predict trends;

the gifts of a responsible work ethic; compassionate leadership; a playful sense of humor; storytelling; the ability to teach and mentor;

the gifts of love of the arts — from classical or even country music to timeless poetry; the ability to play the piano; the ability to take the stage in musical theater; the ability to speak fluent French;

the gifts of a love of history; a love of books; the ability to recite from memory classic literature, a favorite Scripture, or even show tunes;

the gifts of the ability to fly an airplane well; superb athleticism — and not just confined to the hoops he loved to play in college; and,

maybe his best gift, a magnificent ability to demonstrate other-centeredness as opposed to self-centeredness. In particular, he was quick to compliment and promote his friends.

Judge Caryl Delano fondly recalls Judge Glenn both as a colleague and in her appearances before him as a practicing attorney. She says, “I first appeared as a lawyer before Judge Glenn in 1995. He was the kind of judge before whom lawyers loved to appear. He was always prepared, listened carefully, and treated everyone with respect. Win or lose, everyone who appeared before him, especially the parties themselves, felt that they had had their day in court. He never failed to compliment the attorneys on their work. The attorneys appreciated it, but I think these compliments meant even more to the clients. Once when I left his courtroom, the attorneys remarked that a hearing with Judge Glenn was like a neck massage. Whether you won or lost, you felt good afterwards.”

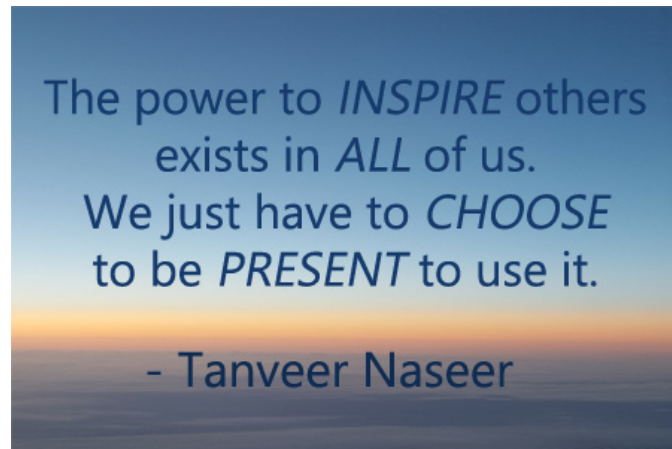
Cindy Turner, Judge Glenn’s long-time law clerk, reported that “Judge Glenn entered 1,057 written opinions during his judicial career. All of the opinions are focused solely on the law and its application. Judge Glenn would never have written or signed an opinion that contained any personal remarks or views about either the litigants or the lawyers. The opinions cover a range of cases, of course, but he never thought that any issue was unimportant.”

Kristyn Leedekerken also served as Judge Glenn’s law clerk. She shares that “Judge Glenn would most want to be remembered not for the countless accolades he received during his career, but for the personal impact he made upon those he encountered. Remember his wisdom in knowing how one’s actions may deeply affect others and choose to have a positive impact on the lives around you, by celebrating strengths and seeing the good. The best way for those who admired and respected Judge Glenn to honor his memory, is in a moment where you may typically lose your patience or temper, think of him, take a deep breath, and try to handle the situation as you think he may have.”

Barry Clark, who served as Judge Glenn’s courtroom deputy for his entire judicial career, stated that “Judge Glenn handled each case as if it were his first and only case on the docket. He complimented all who appeared before him, never raised his voice, never besmirched anyone, and made sure everyone knew and understood the reason for the ruling he made. Judge Glenn was my boss and my friend.”

Judge Glenn’s other staff members included judicial assistants **Paula Luce** and **Laura Stevenson**, law clerks **Alana Williams** and **Joyce Stephens**, and court reporters **Kim Johnson** and **Leisa Gebhard**. Paula, Laura, Joyce, and Kim were able to attend Judge Glenn’s memorial service, along with Barry, Kristyn, and Cindy.

Judge Glenn’s passing has left a hole in the heart of the Middle District. No doubt, each of the attorneys who appeared before him appreciated his intellectual and kind judicial demeanor. He will be missed.



Have an Inspiring Summer!

By Sheryl L. Loesch,
Clerk of Court

It's hard to believe it is summertime in the Middle District of Florida. To us Floridians the start of summer does not necessarily mean the conclusion of the school year for children or the start of vacation time. For us, it means the start of hurricane season! We anxiously listen to the experts' predictions for this season – will there be an unusually high number of storms predicted or a lesser number? Will La Nina or El Nino be in the picture? Should we purchase those long considered hurricane shutters for the house or hold off on this purchase for another year? Do we have enough batteries and candles in the house? What about an old-fashioned corded telephone? Yes, summertime in Middle Florida can be stressful but we Floridians are strong and can handle whatever Mother Nature sends our way, so we do the best planning we can and then take that trip to the mountains or to see family; head to the beach for some much deserved R & R, etc., but above all else, HAVE FUN.

I recently listened to a podcast – for those of you who have never gotten the podcast bug, I highly recommend it! It's a quick and easy way to learn something new or stimulate thinking without involving much of our spare time that is already scarce. If you find a regular podcast you enjoy, there is usually a way you can subscribe and get regular notifications that a new podcast is available for your listening pleasure. If you spend a lot of time in your car in traffic or traveling between divisional offices, you can easily tune in to a podcast to help pass the time during your drive (or your time sitting in I-4 traffic!)

The podcast I recently heard was on the subject of inspiring people. Speaking on the podcast was Kristi Hedges, the author of a book entitled "*The Inspiration Code: How the Best Leaders Energize People Every Day*," We are all leaders in some aspect of our lives and, while listening to this podcast, it quickly became apparent that every one of us can be inspirational to others.

When we think of those people who inspire us (or others), we think of the larger-than-life personality types as those doing the inspiring. We think of people with charismatic personalities. This could not be farther from the truth. I learned that anyone can be inspiration to others. It involves doing small things that are everyday actions. To inspire others, it is first important to develop a connection to them. The author stressed that conversation is what most inspires people and that people prefer the “one-on-one” conversations that are not pre-planned and not forced. The author pointed out that often we can be inspirational to others in ways we do not realize and that our conversations with others may not be all that memorable to us but are meaningful to the receiver.

This got me thinking about all the distractions we have when we try to communicate with each other. Think about how much attention we pay to others during our communications throughout the day – we are challenged with many distractions! When people inspire others with conversation, they focus on the person and make them feel like the most important person. When you think about people you go to for advice, those people are not looking at their phone or looking around when you talk to them – they are looking at you and listening to what you are saying.

During the podcast, the author discussed a four-part code that leads to inspiration in conversations I would like to share with you.

First, be present! Make the person with whom you are speaking your focus – think of them as a blinking red light. When we give our focus, things become more important. Being present is as simple as finding a space to give someone your full attention or stepping away from email. What got my attention was the author’s comment about how having a phone on the table while speaking with another (even if the phone is turned off) changes the conversation. The bottom line – get the phone off the table and out of sight.

The likelihood of being present is more likely if you actually state that to the other person. An example might be, “Our conversation is the most important thing to me for the next hour, so let’s make the most of it.”

The second part of the code is to be personal. We must keep things real in our communication. Authenticity is the gateway to trust. We want to be more of ourselves rather than less. We do this for the sake of building a connection and building trust. The author stated the two most important inspirational characteristics in her research are: 1, that someone listens to us, and 2, that the person speaks with authenticity. People who inspire can recognize the potential in others. They can light up something in people that the people did not see in themselves.

The third part of the code is to be passionate. Being passionate involves three areas – energy, emotion, and conviction. Passion need not be the same for everyone and people have different ranges of passion. Your energy must match the occasion. Sometimes, you must communicate a little calmer and there are other times when you must be more energized. So, there is a range and a dial, and you must set your dial to a place where you want to take people in your conversation. We should also focus on having or showing conviction in our communications. Conviction often shows up in body language, so you want to align your body language with whatever emotion is included in your message. These non-verbal signals are important to communication.

The fourth part of the code is to be purposeful. Talk about values in your communications with people and wear your values on your outside – showcase them. In the work environment, being purposeful helps us get in touch with the meaning behind our work.

This podcast reminded me to listen differently and to think about being present. Each of us can inspire others. It a virtuous cycle because we say these things and they will come back to us. We regularly interact with others from different backgrounds and even different generations and we have much to learn from each other.

I hope you each have a safe, fun, and inspiring summer!

Susan Magaditsch Retires



After thirty years of court service, Susan Magaditsch retired as the Court's Financial Administrator on May 31st. Susan held this position since 2005. She started with the court in October 1988 as an intake clerk and was promoted to case manager. In 2002, she was promoted to the Budget and Financial Specialist position and then to the Financial Administrator position upon the retirement of her predecessor. Our Court had clean financial audits over the years due in large part to Susan's meticulous record keeping and strong work ethic. The Tampa Division gathered to bid a fond farewell to Susan and celebrate her retirement on Thursday, May 30th. Susan was a very dedicated employee and she will be missed.

Congratulations!



30 years!

HAPPY
Retirement!



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

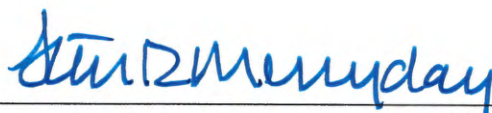
In the Matter of the Appointment
of a Chief United States
Bankruptcy Judge

CASE NO. 8:19-mc-54-T-23

ORDER OF APPOINTMENT

Selected by the district judges of the Middle District of Florida in accord with 28 U.S.C. § 154(b), Bankruptcy Judge Caryl E. Delano is appointed as Chief Bankruptcy Judge for the United States Bankruptcy Court for the Middle District of Florida for a term of four years beginning October 1, 2019.

ORDERED in Tampa, Florida, on May 10th, 2019.



STEVEN D. MERRYDAY
CHIEF UNITED STATES DISTRICT JUDGE



“Must-See” (CLE) TV: Monthly and Quarterly Operating Reports and Final Decrees

By Judge McEwen

Chapter 11 lawyers, the debtor’s financial management personnel, and the debtor’s accounting professionals can avoid the most common mistakes in preparing monthly and quarterly operating reports and calculating fees payable quarterly to the United States Trustee Program (USTP) by watching the video replay of the latest program in my continuing series of quarterly brown bag mentoring programs, *A Refresher on Tricks and Traps of MORs, QORs, and How to Get a Final Decree*. In addition, chapter 11 lawyers and the debtor’s management can learn how to use the operating reports to spot operational problems early on, instead of allowing the problems to fester and metastasize—possibly leading to confirmation objections—due to oversight or neglect.

The program is available to registered CM/ECF users by going to our Court’s website at www.flmb.uscourts.gov, then entering The Source, then the box titled “Online CLE Credits for Bankruptcy Lawyers,” then entering your CM/ECF log-in to view the various offerings, and then selecting the box for the program offered on June 21, 2019. The video runs a little more than an hour (and includes a bonus in the form of information about the pending legislation on a new small business chapter 11 option).

The program features forensic CPA/analyst Steve Pralle and lawyers J. Steven Wilkes and Nathan Wheatley from the USTP as well as frequent filer chapter 11 bankruptcy lawyer Jonathan Semach. Together these four panelists highlight problem areas and unlock the mysteries of filling out operating reports correctly. For example, a chapter 11 debtor’s business pays her monthly automobile installment obligation. Should that be reported? Short answer: Yes. Why? Watch the video. Another example: Parent corporation pays invoices for services rendered to a subsidiary. Both are chapter 11 debtors. Which corporation reports the disbursement? Short answer: Depends. Maybe even both. Why? Watch the video.

You will no doubt enjoy the segment where Mr. Pralle talks about a quick way to eyeball whether current cash flow is sufficient to fund current operations. And that includes your own administrative expense! (No chapter 11 case should be financed on the backs of our chapter 11 lawyers, right?)

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And when it comes to proving entitlement to a discharge for individual chapter 11 lawyers and final decrees, when is the time to start that process and what easy tool can your client use to keep track of plan compliance? The answer to the first part of the question is the day after confirmation. For the answer to the second part, again, watch the video.

Frankly, if I were a chapter 11 lawyer, I would not only make my staff watch the video, but also I would queue up the video while my client is in my office at some point during our initial meetings and *make the client watch it* right then. By asking some pointed questions, you'll be able to tell if your client "gets it." And when the client asks you to seek approval of employment of an accounting professional, I would make the filing of the application contingent on the professional's sitting through the video after first familiarizing herself or himself with the monthly operating report forms.

This "must see" CLE will enable your client's chapter 11 team to maximize the prospect of an effective reorganization, so don't miss it—and don't let the relevant management people and professionals miss it. Oh, and if you view the video within the CLE approval period, you also get free CLE credit.

[Author's note: The Court is very grateful to the panel who put on this valuable show and permitted the program to be taped to help our Middle District chapter 11 lawyers and their clients adopt "best practices" on the issues they dealt with.]



Need trial experience to obtain board certification or recertification?

Often overlooked sources of trial experience are those relating to pro se parties. There are two ways you can tap into these opportunities:

First is the Court's Legal Assistance Program (LAP). To sign up to be on the list for a possible referral of an adversary proceeding or certain types of contested matters involving an indigent pro se party, go here:

http://www.flmb.uscourts.gov/legal_assistance/volunteer_form.pdf?id=1.

Second is to let a judge know that you are willing to accept (or your associates need and are willing to accept) a trial assignment for a pro se party regardless of whether the triable issue is on the LAP list and regardless of whether the pro se party is indigent. A couple of firms in Tampa have done this, and some of their associates have had real trial time as a result. The judge to whom you make the offer will keep you in mind the next time an appropriate proceeding or contested matter pops up.

American Inns of Court



Justice Games

Judge McEwen's Inn of Court hosted this year's American Inns of Court Justice Games, which pits eight Tampa area Inns against one another in a legal trivia and pro bono spirit competition. This year's theme was Game of Thrones. The judge came as old, grey Daenerys, complete with baby Drogon and a Starbucks cup. (She predicted, wrongfully, that Dany would survive and win the Iron Throne.)





Some Bankruptcy Judges
Showing the Love
At the
Florida Bar Convention



Pictured Left to Right: Judge Mora (FLSB), Judge Specie (FLNB), Judge McEwen (FLMB), Judge Delano (FLMB), and Judge Colton (FLMB)



MAKE ME SMILE MOMENTS

Submitted by Judge McEwen

A tip of the hat to a pro se couple who successfully negotiated a better reaffirmation agreement after learning about their options at the initial hearing. They owed about \$8,000 on a car loan secured by a security interest in a 2015 Kia worth about \$11,000. Not being “upside down,” they had no need to seek a redemption loan or ask for a principal reduction. But their interest rate was a whopping 24.27 percent! They accepted a short continuance of the hearing, negotiated with the lender, and came back with an agreement for eight percent! By keeping their monthly payment, the same, which they could afford, they are set to pay off the loan way earlier and at less cost than the original deal. Take note attorneys; if they can do it, you can do it. Remember, if you don’t ask, you don’t know what you’re leaving on the table. Not every lender will negotiate, but some will.

Happy 90th Birthday!

Happy 90th Birthday to our first First Lady of the modern era Bankruptcy Court in Middle Florida, Rose Paskay, bride of Chief Judge Emeritus Alexander L. Paskay! Celebrating this special lady at a luncheon in her honor at the Floridan Palace are, behind her L-R, Mary Morrison (Judge Paskay's long-time Judicial assistant), Judge McEwen, Denise Martin (Judge Paskay's former calendar clerk and courtroom deputy), Judge Colton, Judge Delano, Laura Stevenson, and Dedra Gann (Judge Paskay's long-time Court room deputy). Mrs. Paskay's birthday is June 27th. Note that at 90, she does not need glasses, whereas most of her younger friends do.





Upcoming Bar Events **August - October 2019**

Fort Myers

August 29 &
September 26
12:00 p.m.

SWFBPA Meetings
Federal Courthouse Building Jury Assembly Room

October 17
6:00 p.m.

8th Annual Alexander L. Paskay Memorial Dinner
The Edison, 3583 McGregor Boulevard

Jacksonville

August 23

JBBA 27th Annual Seminar
Sawgrass Marriott, Ponte Vedra Beach

Orlando

September 29
12:00-3:00 p.m.

CFBLA Family Fun Day
Winter Park Racquet Club

October 2
12:00 p.m.

CFBLA Clerks' Appreciation Luncheon
Citrus Club

Tampa

September 5-7

Federal Bar Association Annual Meeting & Convention
Hilton Downtown Tampa

September 9 &
October 8
12:00-1:30 p.m.

TBBBA CLE Luncheons
University Club

Also, of note:

August 30- Florida Bar Business Law Section Retreat - *Naples*
September 2

October 9-11 ABJA Professional Skills Seminar - *Spokane, Washington*

October 29- NCBJ Annual Conference - *Washington, D.C.*
November 2



Jacksonville Bankruptcy Bar Association
By: James C. Eidson, Esq.

On June 26th, the JBBA held its annual Election Luncheon at the River Club. Officers and Directors installed were:



Back Row (left to right)

Ellsworth Summers, Jr. - Board Member
John Freeman - Chairman
Daniel Blanks - Board Member
Doug Neway - Advisor to the Board of Directors
Eugene Johnson - Board Member
Allan Wulbern - Secretary

Front Row (left to right)

Katheryn Hancock - Vice President
James C. Eidson - President
Amy Leitch - Board Member
Taylor King - Treasurer

Not Pictured:

Robert Heekin - Board Member
Kevin Paysinger - Board Member

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On Wednesday, August 7, 2019, at 2:00 PM, Default Mitigation Management (DMM) will be providing an on-line webinar training session to our members with respect to the new Student Loan Modification Program.

And on Friday, August 23, 2019, JBBA's 27th Annual Seminar will be held at the Sawgrass Marriott in Ponte Vedra Beach, Florida. We have an exciting day planned, which includes the current events panel featuring our Middle District bankruptcy judges, and panel topics ranging from the ethics of cloud-based practice management software to the appointment of Chapter 11 Trustees for debtor-in-possession breaches of fiduciary duties. Please click [here](#) for a copy of the brochure.



Central Florida Bankruptcy Law Association By: Esther McKean, Esq.

At the April CFBLA luncheon, Megan Murray and Scott Underwood of Buchanan Ingersoll & Rooney presented *Professional Responsibilities: A Comparison and Contrast of the Differences Between Filing an Insolvency/Wind Up Proceeding in Bankruptcy Court as Opposed to State Court*.



On Thursday, May 16, CFBLA and the Business Law Section of the Florida Bar presented *Why Bankruptcy Matters in Civil Litigation*. The panel of speakers consisted of Eric Golden from Burr Forman, Monique Hayes from Goldstein & McClintock, and Nicolette Vilmos from Nelson Mullins, et al and was moderated by Andrew Layden from BakerHostetler.



On Friday, June 14, the CFBLA held its Annual Seminar at the Citrus Club. The Seminar featured Chief Judge Williamson's State of the District Presentation, a panel discussion with Ninth Judicial Circuit judges regarding presenting bankruptcy issues in state court, and a bankruptcy judges' panel.

CFBLA Upcoming Events

CFBLA Family Fun Day!

Sunday, September 29, 2019
12:00 p.m. – 3:00 p.m.

Winter Park Racquet Club
2111 Via Tuscany, Winter Park, Florida
www.wprc.net

Please RSVP by Wednesday, September 25,
2019 to Noreen at
cfblabankruptcybar@gmail.com with the
number of adults and children attending.

Spend an afternoon in the shade with friends and family by the lake. We will have swimming, fishing, boating, a giant water slide, great food and drinks. All compliments of your membership to CFBLA.



CFBLA Appreciation Luncheon

Wednesday, October 2, 2019
12:00 pm to 1:00 pm

The Citrus Club
255 S. Orange Ave., 18th Floor
Orlando, Florida

Please join us for lunch to show our appreciation to our Guests of Honor, the amazing Bankruptcy Clerks and Support Staff of the Judicial Chambers, Support Staff of the Clerk's Office and Support Staff of the U.S. Trustee's Office.

Guests of Honor are Gratis
Members and Non-Members – a lunch fee
will be assessed (pricing to be announced)





Tampa Bay Bankruptcy Bar Association Annual Dinner

On May 30th, the Tampa Bay Bankruptcy Bar Association held its Annual Dinner at Palma Ceia Golf & Country Club.

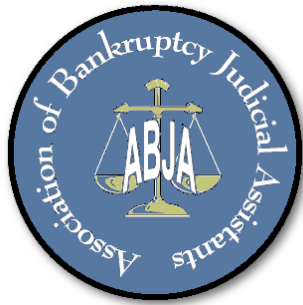
The new officers installed were:

Jake Blanchard, President
Kathleen DiSanto, Vice-President
Noel Boeke, Secretary
Barbara Hart, Treasurer
Lori Vaughan, Chairperson

Andrew Wit, a student at Stetson University College of Law, was presented with the Alexander L. Paskay Award. Next year, Andrew will be clerking for Judge Michael P. Allen, United States Court of Appeals for Veterans Claims, in Washington, D.C.



Chief Judge Williamson presenting the Paskay Award to Andrew Wit



**ABJA CERTIFIED BANKRUPTCY ASSISTANT
AND PROFESSIONAL SKILLS SEMINARS
October 8-11 – Spokane, Washington**

The Association of Bankruptcy Judicial Assistants (“ABJA”) is sponsoring its annual Certified Bankruptcy Assistant Seminar and Exam on October 8-9, 2019, and Professional Skills Seminar on October 10-11, 2019, at the Centennial Hotel in Spokane, Washington.

The Certified Bankruptcy Assistant (“CBA”) program is aimed specifically toward legal assistants and paralegals in the bankruptcy field. The two-day certification program includes training workshops and two exams that cover topics such as grammar usage and writing, the Bankruptcy Code and Rules, ethics, and research and proper legal citation. The instructors will include bankruptcy judges from the Eastern District of Washington.

The ABJA will also offer a Professional Skills seminar on October 10-11. If you are already a CBA in need of continuing education credits or a legal assistant or paralegal who is interested in enhancing your professional development, this is your opportunity to join judicial assistants and bankruptcy professionals in learning best practices.

For more information on the CBA or Professional Skills programs, please visit the ABJA’s website, www.abja.org or contact Laura Stevenson at Laura.Stevenson@flmb.uscourts.gov.



Editors:

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

Supreme Court Cases

Mission Product Holdings, Inc. v. Tempnology, LLC

139 S.Ct. 1652 (May 20, 2019)

Supreme Court resolves circuit split and holds that a debtor-licensor's rejection of a trademark license under § 365(a) does not terminate the licensee's right to use the trademark. Rejection means "breach" not "rescission." Interestingly, by the time the matter reached the Supreme Court, the license had expired by its terms; nevertheless, the majority found that there remained a case or controversy because licensee held a plausible claim for money damages.

Taggart v. Lorenzen

139 S.Ct. 1795 (June 3, 2019)

Supreme Court rejects "strict liability" standard and "purely subjective" standard for holding creditor in contempt for violating discharge injunction. Instead, Supreme Court adopts standard permitting sanctions if "there is no fair ground of doubt as to whether the order barred the creditor's conduct." Stated differently, sanctions may be ordered if "there is no objectively reasonable basis for concluding that the creditor's conduct might be lawful."

This language draws on what the Court calls the "old soil" of the non-bankruptcy civil contempt standard.

Eleventh Circuit Cases

Yerian v. Webber (In re Yerian)

2019 WL 2610751 (11th Cir. June 26, 2019)

Eleventh Circuit affirmed the district court which affirmed the decision by the bankruptcy court denying debtor's claimed exemption in an IRA. The facts showed that debtor used the IRA for his own personal use by purchasing a condo in Puerto Rico, vehicles titled in his own name, and his personal travel expenses. These "self-dealing" transactions caused the IRS to declare his IRA ineligible for federal tax-exempt status. The Court rejected debtor's argument that notwithstanding the loss of the tax-exempt status, the IRA was still protected from creditors under § 222.21, Florida Statutes, so long as the IRA's governing documents complied with § 408(a) of the Internal Revenue Code.

Bankruptcy Court Cases

In re Lester

2019 WL 2537954 (Bankr. M.D. Fla. June 20, 2019) (Williamson, C.J.)

Court denied debtor's motion to reopen Chapter 7 case to attempt to vacate foreclosure judgment. Court held that: (1) under the *Rooker-Feldman* doctrine the Court lacked jurisdiction to review the foreclosure judgment, (2) even if the Court had jurisdiction, the Court was bound by the state-court judgment under principles of collateral estoppel, and (3) the creditor met its burden of showing it was the "holder" of the note and mortgage.

Kolb v. Bentley (In re Bentley)

599 B.R. 369 (Bankr. M.D. Fla. April 9, 2019) (Jennemann, J.)

Court found that debtor went to extraordinary lengths to hide a valuable 1930 Cord Phaeton vehicle, secretly sold it, used the proceeds to pay off her mortgage, then filed bankruptcy to avoid paying a loan secured by the vehicle. This resulted in the denial of the debtor's discharge, the reduction of her claimed homestead exemption, and the imposition of a constructive trust and equitable lien on her home.

Regions Bank v. MDG Lake Trafford, LLC (In re McCuan)
2019 WL 1984005 (Bankr. M.D. Fla. April 30, 2019) (Delano, J.)

Creditors and Trustee pursued recovery of fraudulent transfers from debtor and debtor's spouse under § 726.105, Florida Statutes, and under § 56.29, Florida Statutes, which is Florida's supplementary proceeding statute. Court avoided transfers as both actually and constructively fraudulent, rejecting the defendants' claims that the transfers could not be avoided because the accounts from which the funds were transferred were held as tenants by the entirety. Additionally, the court found that it would be inequitable to enter judgment against the wife where there was no evidence of fraudulent intent on her part and no evidence that she exercised any control over the accounts.

Second Quarter 2019 Pro Se Clinic Volunteers



Jacksonville

Daniel Blanks
Ramona Chaplin
Alison Emery
Katie Fackler
Gregory Gilbert
Courtney McCormick
Preston Oughton
Kevin Paysinger
Adina Pollan

Orlando

Alec Solomita
Allison Moscato
Amy Goodblatt
Brad Saxton
Cameryn Justice Rivera
Frank Wolff
Joshua Tejes
Justin Luna
Prof. Linda Coco and Students from Barry Law School
Robert Branson

Tampa

Attorney	Total
Barnett, Michael	6
Bidwell, Ron	1
Case, Kenneth	6
Dammer, Samantha	4
DeLeon, Robert	2
DePaul, Wendy	3
Elliott, James	1
Fogarty, Daniel	1
Geller, Robert	5
Gomez, Al	2
Hale, Matthew	2
Halloran, Patti	5
Hamad, Sanad	3
Hooi, Michael	1
Joyner, Mary	2
Landkammer, John	2
LeVine, Dennis	2
Lim, Angelina	2
O'Brien, Kevin	2
Papa, Frank	3
Petry, Kelley	2
Robens, Mark	3
Salahutdin, Taira	4
Sierra, Timothy	6
Stevenson, Traci	2
Stichter, Scott	2
Number of unfilled slots	1

DON'T SEE YOUR NAME HERE? NOT UNLESS YOU VOLUNTEER!



UNITED STATES TRUSTEE'S CORNER

By: Charles R. Sterbach, Assistant United States Trustee, and
Jill Kelso, Orlando Office of the U.S. Trustee

Meet Nancy J. Gargula, United States Trustee



Nancy J. Gargula, the U.S. Trustee for Indiana and the Central and Southern Districts of Illinois since 2002, has been designated by Attorney General William P. Barr to also serve for an interim period as the U.S. Trustee for Florida, Georgia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands, effective April 30, 2019. She replaces Daniel M. McDermott, who served as interim U.S. Trustee in the region since January 2018.

Ms. Gargula is a 17-year veteran of the U.S. Trustee Program, who also served as the U.S. Trustee for Missouri, Arkansas, and Nebraska from May 2006 through December 2014. Before joining the U.S. Trustee Program, she was a partner at what is now known as Faegre, Baker & Daniels in Indianapolis from 1997 to 2002 and a member of the Commercial, Financial, and Bankruptcy Services Team. Prior to that, she worked at Bank One (now Chase) for 12 years, serving most recently in the role of general counsel and secretary to the Board of Directors.

Ms. Gargula received her JD from the University of Notre Dame Law School in 1981 after graduating *summa cum laude* from Ball State University in 1977. She started her practice with a small commercial law firm where she learned bankruptcy from a senior partner who was also a chapter 7 panel trustee.

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Ms. Gargula is active in numerous professional associations, including the American Bankruptcy Institute, the Seventh Circuit Bar Association, the Indianapolis Bar Association, and the Indianapolis Bar Foundation.

Ms. Gargula is a frequent speaker on bankruptcy, banking, commercial law, and related topics and has spoken on a wide variety of panels at conferences for the National Association of Chapter 13 Trustees, the National Association of Chapter 7 Trustees, the National Conference of Bankruptcy Judges (NCBJ), and the American Bankruptcy Institute. For the past 14 years, she has also served on the NCBJ Liaison Committee with other members of the Executive Office of U.S. Trustees.

Ms. Gargula is also active in her community, volunteering for a number of non-profit organizations, at her church, for her neighborhood association, and, as of July 1, 2019, she will assume the role of President of the Notre Dame Law Association, the alumni association for all graduates of Notre Dame Law School. She loves to sing, play piano, play guitar, cook, etch glass, and simply relax with a good book.



New Student Loan Modification Program

By: Bob and Tammy Branson,
BransonLaw PLLC

On June 10, 2019, Chief Judge Michael Williamson entered Administrative Order 2019-1 Prescribing Procedures for Student Loan Modification Program (“SLM”) in the Middle District of Florida, which goes into effect on August 1, 2019. The SLM Program was the result of a district-wide effort, with input from all three divisions of the Middle District. The Order provides for the use of online software to assist debtors with their repayment options. It also prepares repayment applications for federal student loans and provides a portal for submissions of documents and open communication. With the oversight of the Court, we feel confident the process will have a much higher success rate than at present.

There are over 44 million Americans with student loan debt totaling more than \$1.5 trillion. Of that number, 82% of the loans and 90% of the debt are federally guaranteed student loans. The Department of Education (“DOE”) already has multiple repayment options that are based on the borrower’s income, but the process is sometimes difficult to navigate. By the DOE’s own Office of the Inspector General’s report issued February 12, 2019, student loan servicers were found to be giving erroneous information to borrowers 61% of the time. This included servicers misguiding borrowers as to whether they should enter into a repayment plan and instead encouraging forbearance or deferment. Servicers also miscalculated monthly repayment amounts and did not properly apply payments.

This problem mirrors the issues we had with mortgage servicers modifying mortgages at the height of the Great Recession. When the Courts got involved, the process began to work. In 2011, Judge Karen S. Jennemann announced the implementation of the Mortgage Modification Mediation Program (“MMM”) in the FLMB Orlando Division. Since that time, 6,268 mortgages have been modified in the Orlando Division alone! In MMM, we use the DMM Portal to communicate in a format that mortgage companies find useful and efficient to rapidly underwrite mortgage modifications. Likewise, the SLM software prepackages the consolidation and repayment applications for government backed student loans and uses a portal to communicate with DOE and its many servicers. This process uses DOE’s own program to resolve issues with borrowers to the benefit of all constituencies.

This is important because historically we treated student loans pro rata with other unsecured creditors. At the end of a Chapter 13, the debtor would owe more than when the case was filed since interest continues to accrue. This results in a false start instead of the fresh start Congress intended; from a policy perspective, this is a problem that needs to be resolved. Here are some highlights from the Administrative Order:

1. Provides for Chapter 7, 11, 13, and 12 debtors to request repayment or settlement with creditors that hold a claim for any educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit; or made under any program funded in whole or in part by a governmental unit; or any loan that purports to be a student loan on which the debtor is an obligor. We believe the process will be used in Chapter 13 most of the time.
2. Uses Document Preparation Software with DMM's Student Loanify, a secure online program that facilitates the preparation of the Initial SLM Package by populating the Standard SLM Documents and generates a Creditor-customized checklist of additional required supporting documents that the Creditor requires from the Debtor. Using the Document Preparation Software ensures that the initial submission to the Creditor is complete and accurate and should expedite the Creditor's review.
3. Uses a Portal: A secure online service that allows SLM documents and communications to be submitted, retrieved, and tracked between the Required Parties. Submitting documents to the Portal provides transparency by making information immediately available to all parties through a secure internet website. The Court will list approved Portals on its website.

If the Debtor is approved for a repayment plan, the monthly payment will be paid through the Chapter 13 Plan by the Chapter 13 Trustee and will not receive a pro rata division. Generally, if the student loan debt exceeds the amount of other unsecured debt this will increase the pro rata distribution to the other unsecured creditors. Some courts take the position that the student loan debt may be paid in a separate category as long as either the pro rata distribution increases to the other

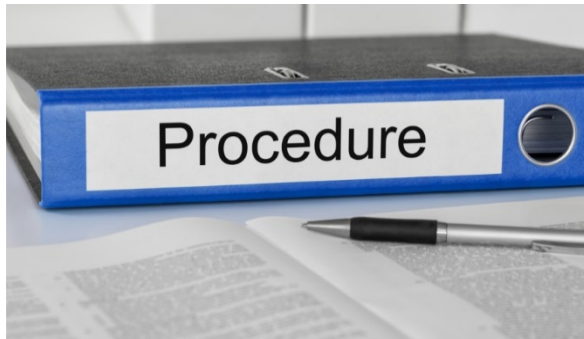
general unsecured creditors or the best interests of creditors test is being met.

We hope this program will assist debtors through the maze of DOE's repayment options and with possible settlements with private student loan servicers since private student loans do not have repayment plan options. The good news is the SLM program may increase bankruptcy filings, increase Chapter 13 Trustee revenue, increase general unsecured dividends, and produce DOE performing loans. Best of all, the debtor is now on track to earn a forgiveness. The public service forgiveness program is earned over ten years, and non-public service forgiveness programs are earned over twenty to twenty-five years. We thank our FLMB Judges for their efforts in giving us a vehicle to assist Debtors with their student loans. We hope this program is a success and spreads to other bankruptcy courts in the State of Florida and throughout the nation.

Attachments:

[MDFL Administrative Order 2019-1](#)

[U.S. Department of Education, Office of Inspector General report dated February 12, 2019](#)



Procedure Manual Committee Update

The Procedure Manual Committee would like to thank all who participated in the recent survey to improve the function and content of the Court's procedure manual. The survey revealed several areas that we can enhance, such as providing users with a summary of the updates to the procedure manual. The Committee will discuss the survey results and formulate a plan to implement many suggestions received from our users.

The next substantive update to the procedure manual will occur in mid to late July. This update will include:

- revised Local Rule references in all existing procedures;
- a procedure for Motions for and to Vacate Wage Deduction Orders;
- a sample form for an Order Granting Motion to Determine Adequate Assurance of Payment of Utility Services, or, in the Alternative, Establish the Procedure for Determining Adequate Protection;
- a sample form for an Order Vacating Wage Deduction Order;
- content updates to nine (9) existing procedures; and
- a new category titled: Utility Procedures.
 - ❖ **Note:** The Utility Procedures category will house all procedures without a CM/ECF event associated with it.

As a reminder, the Procedure Manual Committee can be reached via email at FLMB_Procedures@flmb.uscourts.gov to answer questions or to consider any suggestions for new procedures. Responses to inquiries are generally returned within 48 hours.



Chapter 13 Court Visits By Laurie Weatherford, Orlando Chapter 13 Trustee

Seizing a rare opportunity, the Chapter 13 staff was invited to court to observe hearings before Judges Jennemann and Jackson. With filings temporarily down, members of the Office of the Chapter 13 Trustee in the Orlando Division took a few minutes away from their desks to see the final product of their efforts, live and in person. Staff members left the experience knowing how their specific duties impact the overall chapter 13 process from start to finish. They enjoyed the opportunity to meet attorneys and court personnel who they have only spoken with on the phone.

Many thanks to the Court and staff who made this possible. Indeed, it takes a village. How gratifying to witness an overall job well done.





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Where's My Order?

(When obvious typographical errors are made)

Dear Point and Click: Some of my proposed orders seem to take a little longer than others to get entered, and several are sent back to me to correct errors. Regrettably I must admit, in the interest of time, some of my best proofreading is done after I hit "send." Do you have any tips for me?

Answer: As a practice pointer, especially considering that you may be billing your client for reviewing a proposed order (of course you'll want to review all proposed orders before submitting them in any event), you should spell and grammar check each one. It is my understanding the Court is experiencing more and more proposed orders with obvious typographical errors -- primarily misspellings and missing words. If the Court must correct obvious errors, the processing of your proposed order will be delayed. Alternatively, and as you mentioned, the Court could send back the order for corrections, which also results in a delay. In this instance and in fairness, the Court hopes your client is not being billed for your initial review of the proposed order and for correcting your mistakes. In addition to spell and grammar checks, it is a good idea to regularly review the Style Guide, located on The Source page on the Court's Website, to ensure your order meets all requirements and to further reduce the number of rejected orders and time spent correcting and resubmitting your order.

Dear Point and Click: I have questions about signature requirements, proofs of service, and correcting social security number issues on documents and orders submitted through the Court's electronic filing (CM/ECF) System.

Question 1: In light of recent rule updates regarding signatures on electronically filed papers, need I continue to use an "/s/" on signature lines for papers filed via CM/ECF?

Answer 1: Federal Rule of Bankruptcy Procedure 5005, amended on December 1, 2018, and Local Rule 1001-2, amended on July 1, 2019, both require that the name of the filing user appear in the signature block of electronically filed documents. The key here is that the name of the person whose CM/ECF login is used to make the filing must appear somewhere within the signature block. As a best practice, you

should continue to place that person's name on the signature line. However, there is no longer a requirement to include an "/s/."

Question 2: If I have an adversary proceeding or a contested matter where all who were served were served electronically, am I required to file a certificate or proof of service?

Answer 2: Local Rule 9013-3(b), effective July 1, 2019, reads: "In adversary proceedings and contested matters in which all parties are represented by counsel or have consented to service via CM/ECF, service of papers and Court orders is effectuated upon the parties by CM/ECF; counsel are not required to file a separate proof of service reflecting such service."

Question 3: When preparing orders, what service language should be included and, if all recipients receive service electronically, am I required to file proof of service of the order after it is entered?

Answer 3: Local Rule 9072-1(b)(6), effective July 1, 2019, includes the most up-to-date service language required when preparing orders. Therefore, as of July 1, 2019, service language on orders must state:

"Attorney [or Trustee], [insert name of attorney/trustee] is directed to serve a copy of this order on interested parties who do not receive service by CM/ECF and file a proof of service within three days of entry of this order."

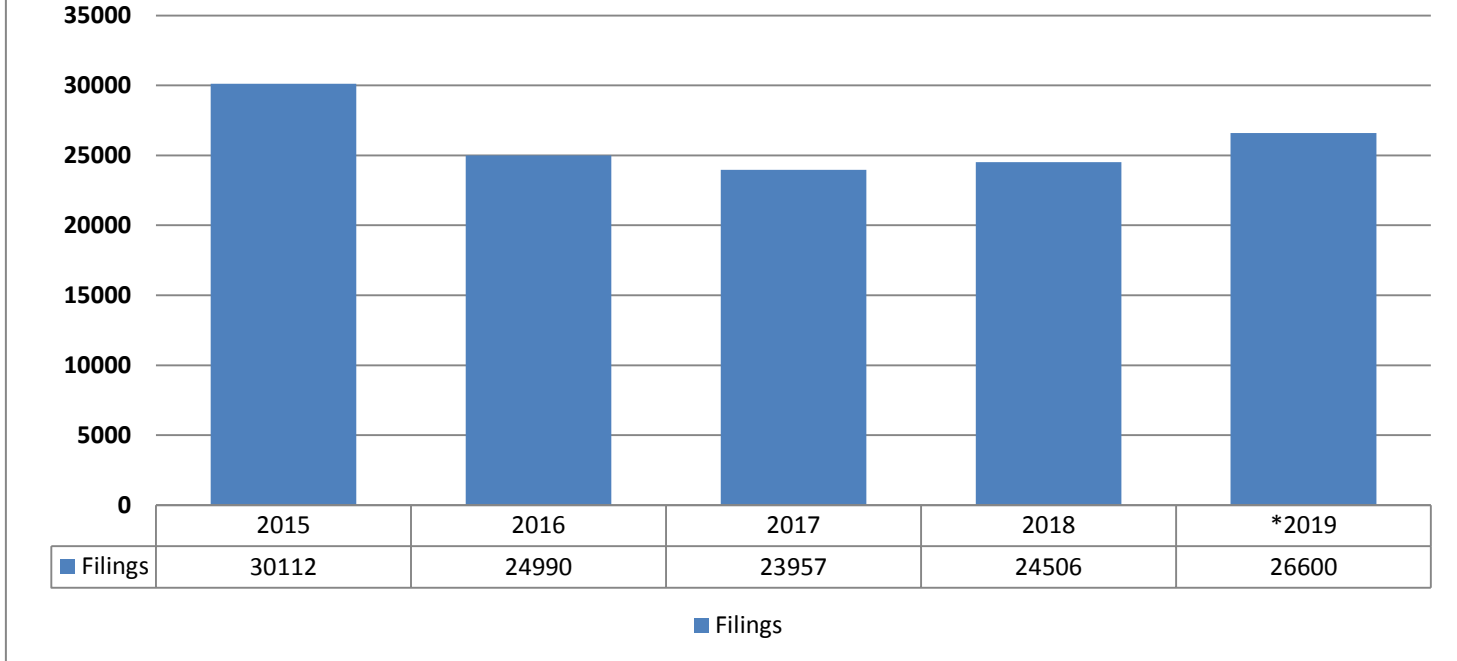
Once the order is entered, if all recipients received the order electronically via CM/ECF then, pursuant to Local Rule 9013-3(b), counsel (or trustee) is not required to file a separate proof of service reflecting service.

Question 4: When filing amendments to the petition to correct a social security number, should we include an amended Statement About Your Social Security Numbers with the amended petition?

Answer 4: If you are filing an amended petition to correct an error with the social security number, it is appropriate to also file an amended Statement About Your Social Security Numbers if the statement was also incorrect. However, because the statement provides the full, unredacted social security number, it must be filed separately in CM/ECF using the corresponding filing event. Doing so ensures the proper viewing restrictions are applied to the statement based on privacy standards.

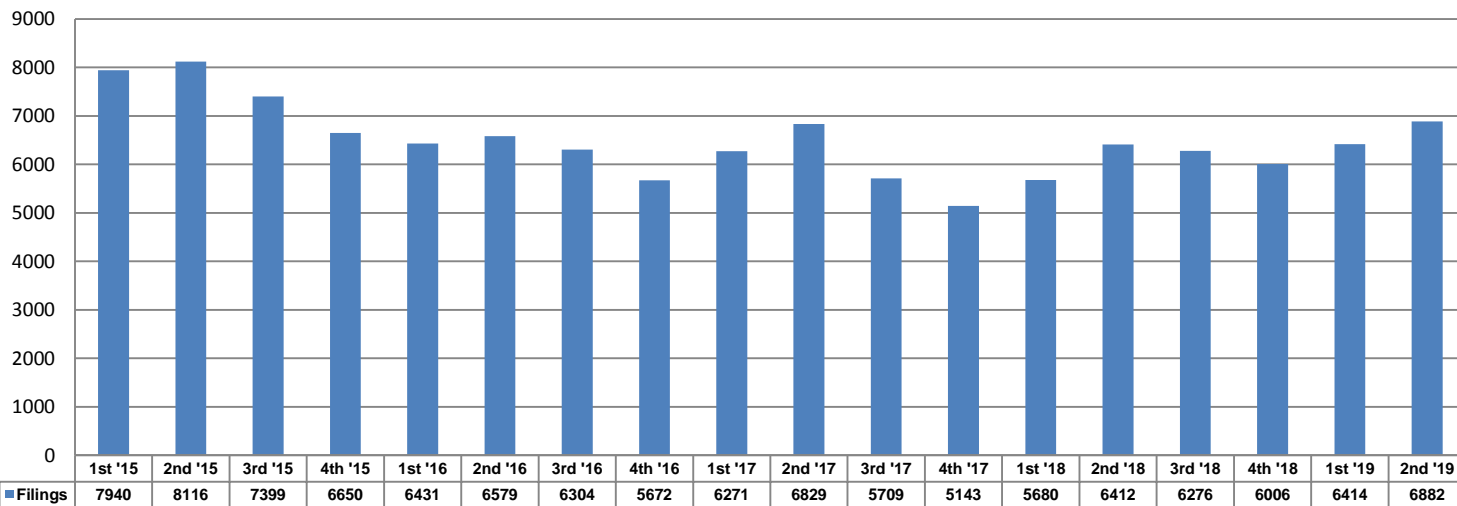
**United States Bankruptcy Court - Middle District of Florida
Statistics as of June 30, 2019**

Annual Filings

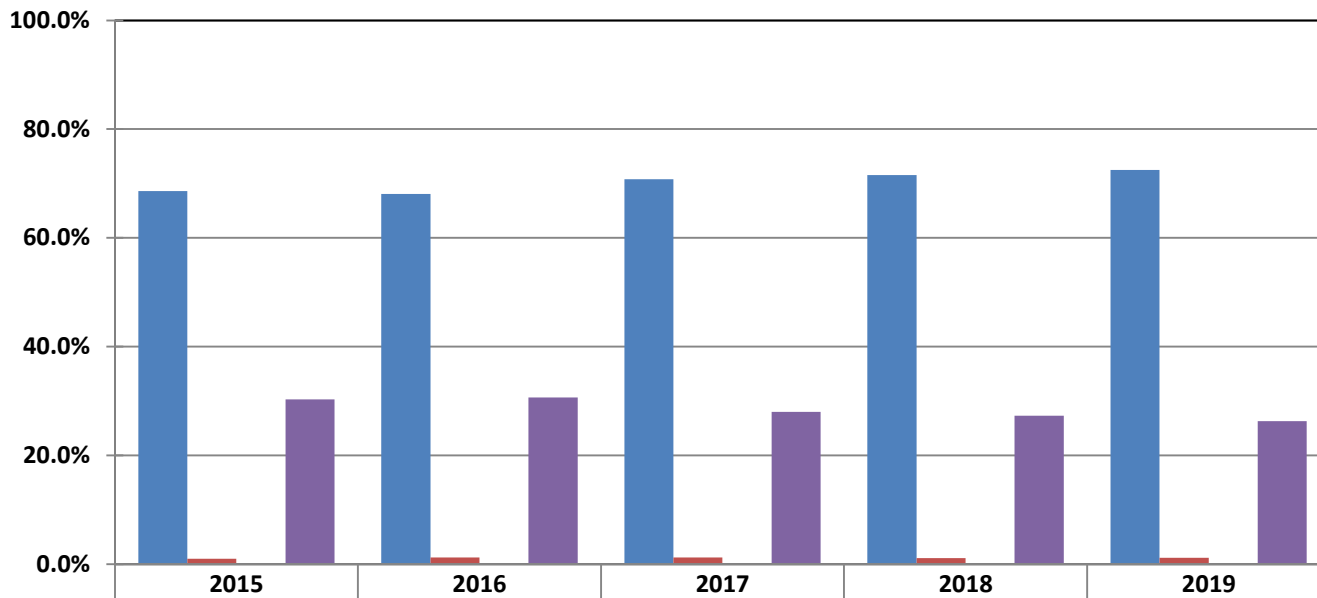


Year	Annual Filings	vs. 2013	vs. Prior Yr.
2014	36305		
2015	30112	-17%	-17%
2016	24990	-31%	-17%
2017	23957	-34%	-4%
*2019	26600	-27%	11%

Filings by Quarter

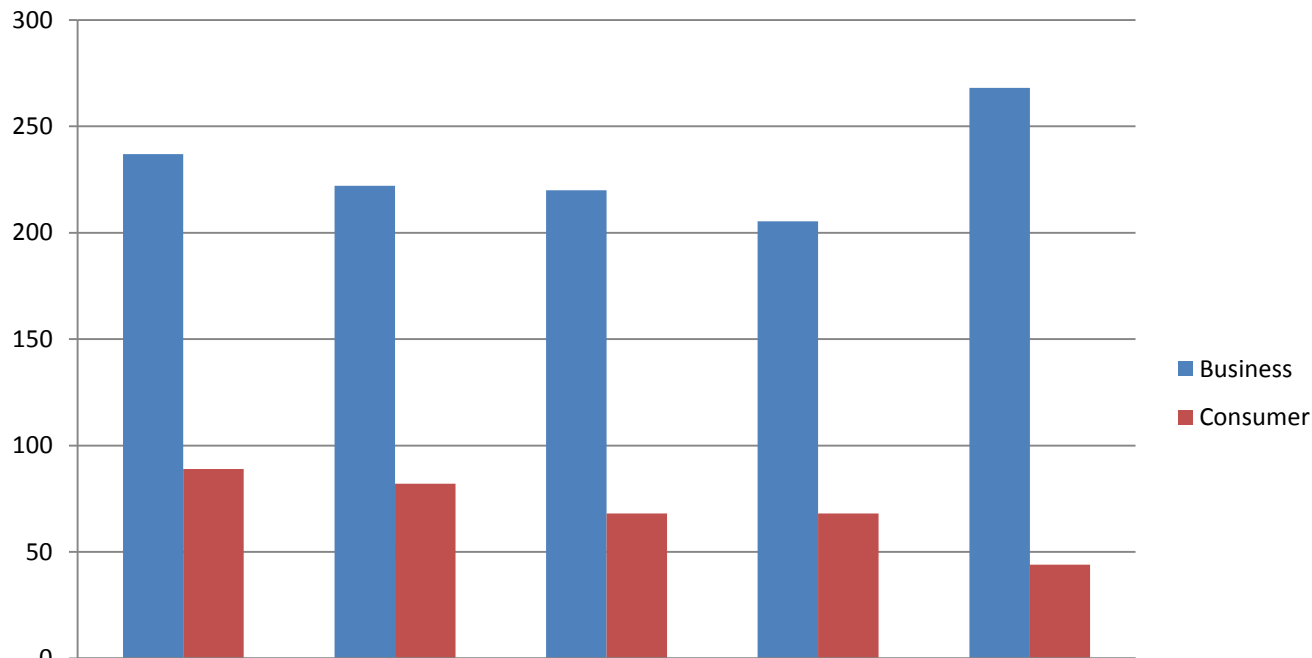


Filings by % of Chapter Type



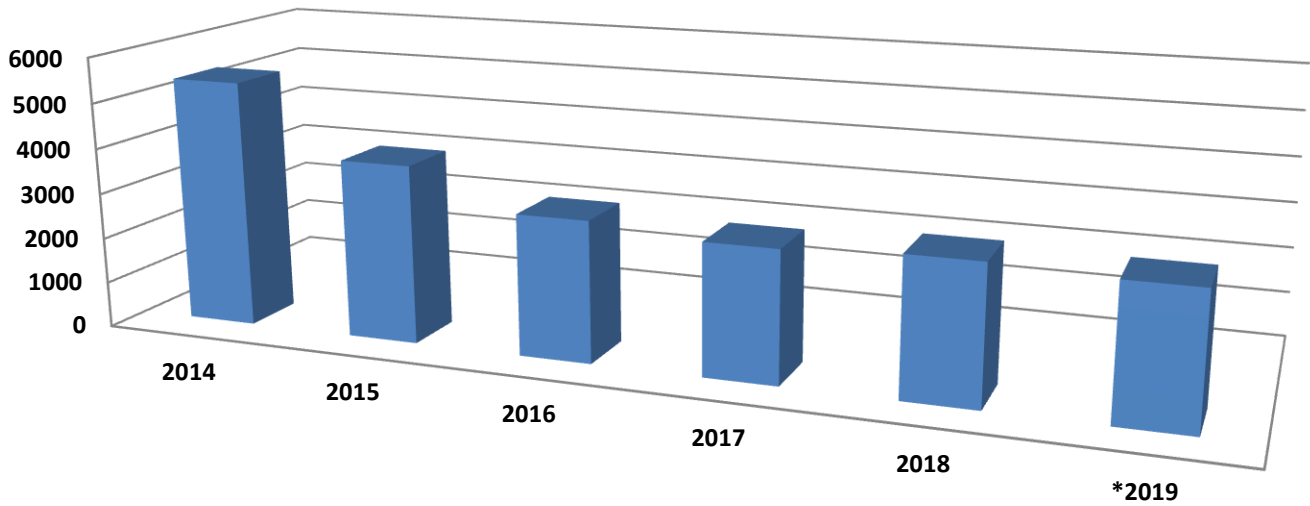
	2015	2016	2017	2018	2019
Chapter 7	68.6%	68.1%	70.8%	71.6%	72.5%
Chapter 11	1.0%	1.2%	1.2%	1.1%	1.1%
Chapter 12	0.1%	0.0%	0.0%	0.0%	0.0%
Chapter 13	30.3%	30.7%	28.0%	27.3%	26.3%

Chapter 11 Filings



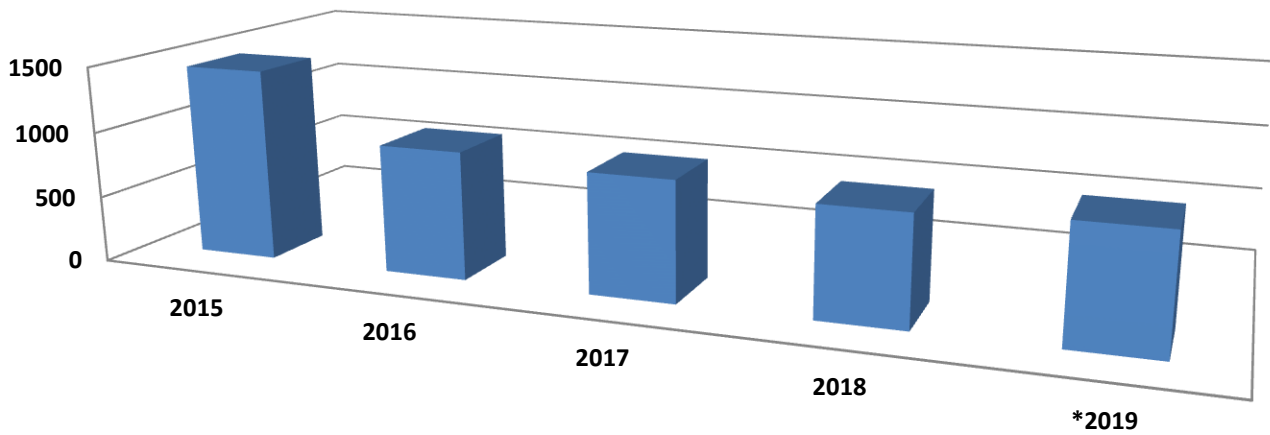
	2015	2016	2017	2018	2019
Business	237	222	220	205	268
Consumer	89	82	68	68	44

Pro Se Filings



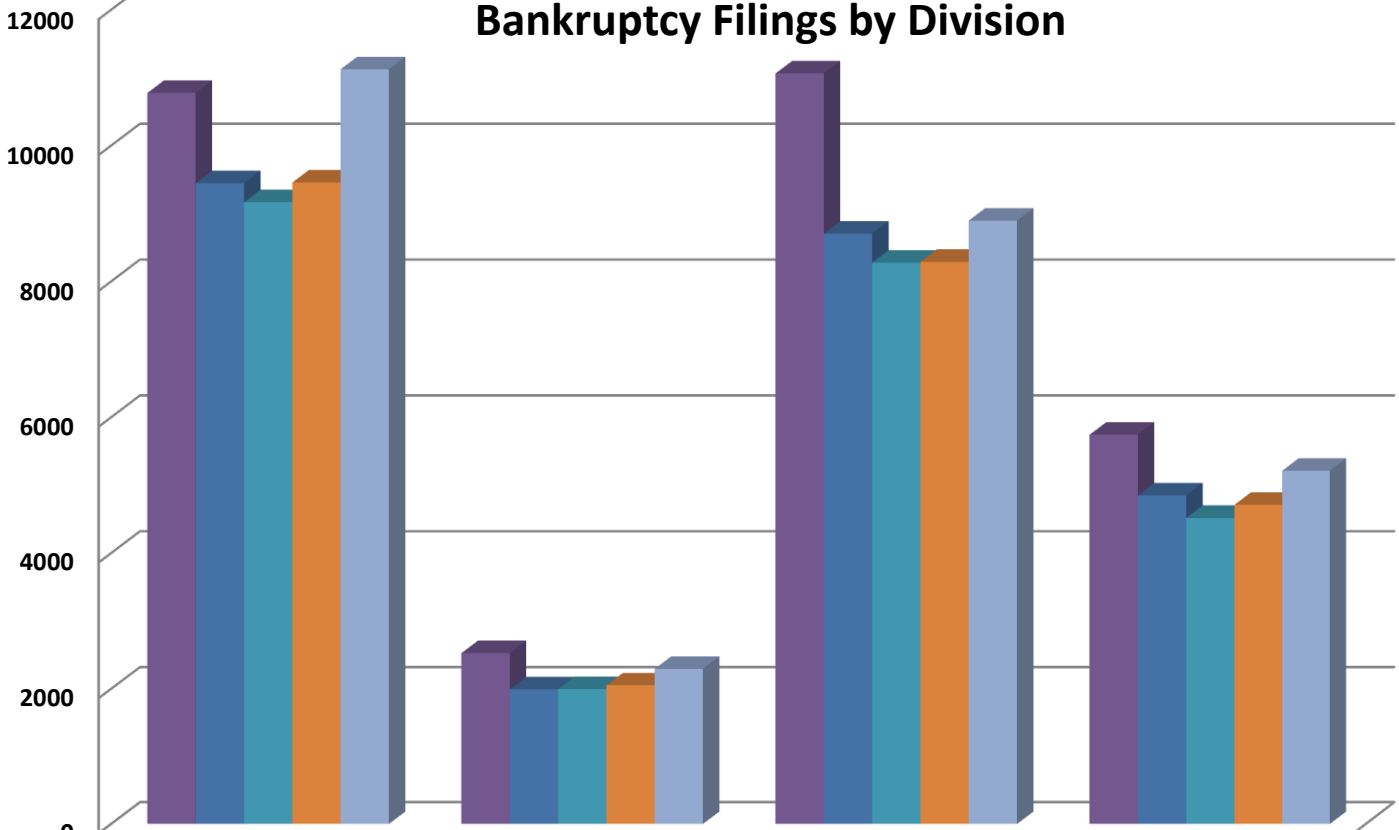
	2014	2015	2016	2017	2018	*2019
■ Pro Se	5416	3902	3079	2868	3006	2908
% of All Filings	18%	16%	13%	12%	12%	11%

In Forma Pauperis Filings



	2015	2016	2017	2018	*2019
■ IFP Granted	1456	965	903	825	872
% of All Filings	5%	4%	4%	3%	3%

Bankruptcy Filings by Division



	Tampa	Ft. Myers	Orlando	Jacksonville
2015	10775	2527	11061	5742
2016	9445	1993	8703	4849
2017	9166	1997	8276	4518
2018	9456	2052	8288	4711
2019	11124	2296	8896	5212

Note: *2019 Counts include reopen cases.
 Order Granting IFP counts have been corrected to include approving language.

(Judge Glenn's favorite poem, as read at his memorial service)

From Ithaca by the Greek poet Constantine Cavafy:

When you set out on your journey to Ithaca,
pray that the road is long,
full of adventure, full of knowledge.

...

Do not fear the ...
... Cyclops and the angry Poseidon ...

...

[Pray] that the summer mornings are many, when,
with such pleasure, with such joy
you will enter ports seen for the first time;
stop at Phoenician markets,
and purchase fine merchandise,

...

visit many Egyptian cities,
to learn and learn from scholars.

Always keep Ithaca in your mind.
To arrive there is your ultimate goal.
But do not hurry the voyage at all.
It is better to let it last for many years;
and to anchor at the island when you are old,
rich with all you have gained on the way,
not expecting that Ithaca will offer you riches.

Ithaca has given you the beautiful voyage.

