



The Court Connection

Newsletter of the
United States Bankruptcy Court
Middle District of Florida

Volume 13 | Issue 2 | April 2024

“Our Court serves the public by processing and deciding bankruptcy cases with fairness, impartiality, and excellence, while treating everyone with dignity, integrity, and respect.”

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The Court Connection is published quarterly.

Please submit items for the next edition by July 1, 2024, to: newsletter@flmb.uscourts.gov.



The State of the District 2024
By: Hon. Caryl E. Delano, Chief Judge

In 2012, former Chief Judge Karen Jennemann started the tradition of presenting an annual State of the District address in each of the Middle District's four divisions. Judge Williamson followed this tradition for the four years that he served as chief. My first State of the District presentations were scheduled in March 2020, and I was fortunate to squeeze the Jacksonville presentation in before the pandemic shutdown. 2021 marked the first ever Zoom State of the District presentation, and in 2022 and 2023, I presented live in some of the divisions and by Zoom in others. So 2024 marked the first time I was able to give the presentation live in each District!

Thanks to the Jacksonville Bankruptcy Bar Association, the Central Florida Bankruptcy Law Association, the Southwest Florida Bankruptcy Professionals Association, and the Tampa Bay Bankruptcy Bar Association for hosting the presentations! I greatly enjoyed visiting with bankruptcy practitioners throughout the District.

For those of you who missed it, here are some of the highlights:

Our Judges

Jacksonville

Judge Jay Brown

- Chair, Middle District of Florida's Virtual Pro Se Clinic Committee
- American College of Bankruptcy – Pro Bono Committee
- NCBJ – DEI, Legislative, Annual Committee Meetings

Judge Jason Burgess

- Adjunct Professor at University of Alabama School of Law

Judge Jerry Funk

- Will seek reappointment for five-year term as recall judge.

Orlando

Judge Lori Vaughan

- Adjunct Professor, Florida A&M University School of Law
- Editor-in-Chief, *NCBJ Conference News*

Judge Grace Robson

- Co-Chair, Secured Creditors' Subcommittee, ABA Business Bankruptcy Committee
- Panelist, ABA Spring 2024 Meeting in Orlando

Judge Tiffany Geyer

- *NCBJ Conference News* Committee Panelist, ABA Spring 2024 Meeting in Orlando
- Presenter, 2023 NCBJ Conference
- NCBJ Public Outreach Committee
- Spearheaded NCBJ's Public Outreach Project in Austin, Texas.
- Guest Lecturer, University of Florida Levin School of Law

Tampa

Judge Catherine Peek McEwen

- Judicial Conference's Committee on the Judicial Branch
- Judicial Conference's Advisory Committee on the Bankruptcy Rules
- Adjunct Professor, Western Michigan University Cooley School of Law
- NCBJ Legislative Committee

Judge Caryl Delano

- Reappointed Chief Judge effective October 1, 2023.
- Eleventh Circuit Representative, AO's Bankruptcy Judges' Advisory Group
- Judicial Co-Chair, ABI/Paskay Seminar
- Judicial Chair, CLE Committee, Business Law Section of The Florida Bar

Judge Roberta Colton

- Secretary, National Conference of Bankruptcy Judges
- NCBJ Education Committee
- Judicial Chair, Bankruptcy Judicial Liaison Committee, Business Law Section of The Florida Bar

Clerk's Office

Court Employees

- 26 retirements between January 2020 and January 2024
- Good news: Four new case managers started on February 26, 2024.

	January 2023	January 2024
Clerk's Office Employees	56	48
Case Managers	24	18
IT Staff	10	9

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Virtual § 341 Meetings

Zoom § 341 Meetings

U.S. Trustee Program implemented virtual § 341 meetings of creditors via Zoom in Chapter 7, 12, and 13 cases in the Middle District of Florida in cases filed on or after September 1, 2023.

Information on each Trustee's procedures, links, etc. in



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Subchapter V – Small Business Reorganization Act

Subchapter V “Unofficial” Statistics

- Middle District of Florida still ranked #1 in filings.
- 30% more Subchapter V cases than #2 – Central District of California.

Division	No. of Cases
Tampa	217
Orlando	212
Jacksonville	93
Fort Myers	65

78

Student Loans

DOJ Student Loan Guidance – effective November 12, 2022

“Unofficial” Statistics

Middle District of Florida

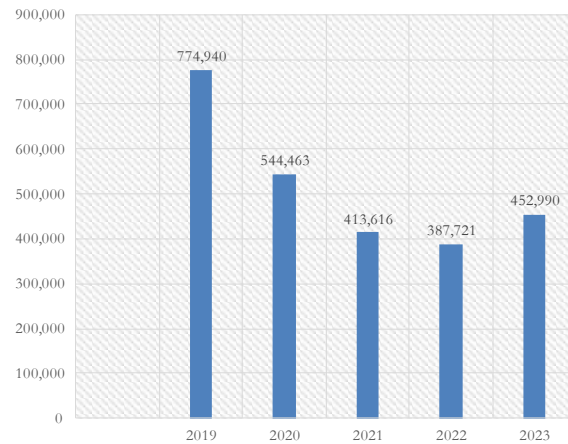
Category	No.
Cases filed in 2020	8
Cases filed in 2021	3
Cases filed between 1/1/2022 and 11/16/2022	7
Cases filed from 11/17/2022 to present	42
Pending Cases	35
Cases Resolved	7
Total Discharge	4
Partial Discharge	0
% of Total or Partial Discharges	57.14%

82

Filing Statistics

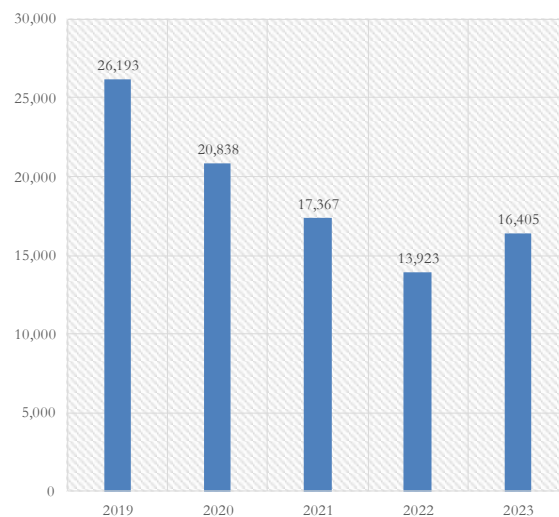
National Filings

Bankruptcy filings increased 16.8% from year ending 12/31/2022.

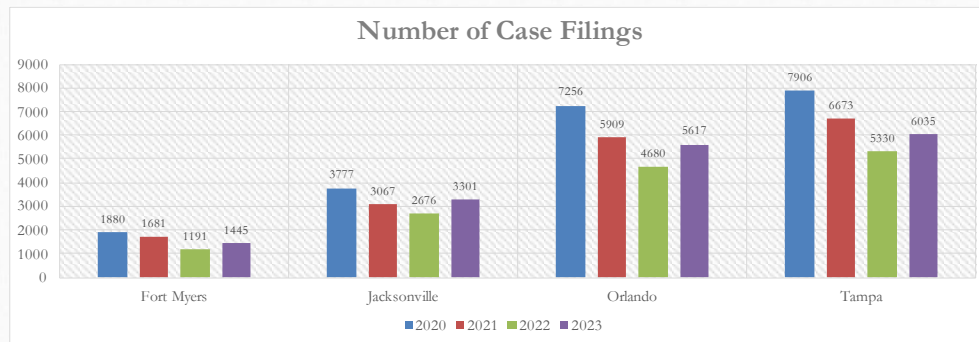


Middle District Filings

Filings increased 17.8% from year ending 12/31/2022.



Middle District Filings by Division



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Middle District Filings 2020-2023

	2020	2021	2022	2023
Chapter 7	16,653	13,753	10,016	11,913
Chapter 11	282	226	290	262
Chapter 13	3,891	3,382	3,593	4,227
Other (Chapters 12, 15, etc.)	12	6	24	3
Total Filings	20,838	17,367	13,923	16,405

	2020	2021	2022	2023
Adversary Proceedings	977	773	525	556

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Middle District Weighted Caseload Average Year Ending December 31, 2023

- Nationally, the average of weighted cases per authorized judgeship ranges from 2,022 to 88.
- Middle District ranked 14th in the nation for a total of 761 weighted cases per authorized judgeship (9 total authorized judgeships).
- For 8 authorized judgeships, 856 weighted cases per judge (would be ranked 10th in the nation).

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District-Wide Pro Se Virtual Clinic

District-Wide Pro Se Virtual Clinic

- Thirteenth Judicial Circuit
Pro Bono Committee Special
Recognition Award
- Jacksonville Area Legal Aid
Outstanding Pro Bono
Service Award



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Portrait Ceremony in Honor of Judge Cynthia Carson Jackson

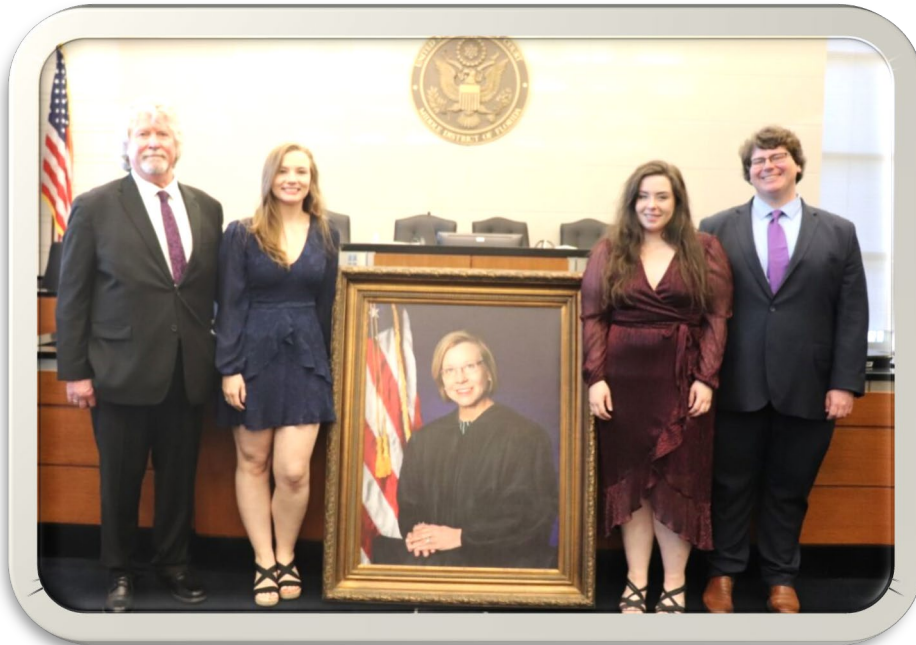


Judge Jackson's Official Portrait

The Court held a ceremony to unveil the official portrait of Judge Cynthia Carson Jackson on February 6, 2024, at the Bryan Simpson United States Courthouse in Jacksonville. The portrait is in memory of Judge Jackson, who served as a United States Bankruptcy Judge for the Middle District of Florida. She sat in the Orlando Division from March 2013 until February 2020, when she transferred to the Jacksonville Division. Judge Jackson retired in August 2021 due to health reasons and passed away in April 2023.

Many of Judge Jackson's family and friends, members of the bankruptcy bar, district court judges, and court staff attended the February 6 ceremony. Chief Judge Caryl Delano presided, and all of the bankruptcy judges for the Middle District were in attendance.

Judge Jackson's daughters, Lilly and Courtney, lead the Pledge of Allegiance, followed by the invocation by Judge Jason Burgess. Chief Judge Delano, Judge Jacob Brown, Richard Thames, Amy Denton Mayer, and Stephen Busey spoke, followed by Judge Jackson's son, Trace. After the presentations, Judge Jackson's family unveiled the portrait, which now hangs outside of Judge Jackson's former courtroom and chambers on the fourth floor of the Jacksonville courthouse.



Judge Jackson's family poses with her official portrait.



*Middle District of Florida Bankruptcy Judges with Judge Jackson's portrait:
(L to R) Hon. Grace Robson, Hon. Lori Vaughan, Hon. Jason Burgess, Hon. Jacob Brown,
Hon. Catherine McEwen, Hon. Tiffany Geyer, Hon. Caryl Delano, Hon. Roberta Colton, Hon. Jerry Funk*

The portrait and the reception after the ceremony were sponsored by the Bench Bar Fund of the United States District Court for the Middle District of Florida. The Court extends many thanks to the members of the Jacksonville Bankruptcy Bar Association, and the Bench Bar Fund committee, as well as Court staff who coordinated the event.

Judge Jason Burgess' Chambers Hallway Museum

Judge Burgess has a wonderful collection of historical items in his chambers in the Jacksonville Courthouse.

Following are some highlights:



Tribute to Judge Cynthia Jackson and Her Robe



Judge Paul Glenn's Letter Jacket and Robe

Judge Jason Burgess' Chambers Hallway Museum



Judge George Proctor's Recognition Items for Being a 50-year Member of The Florida Bar.

* * *

Your Pro Bono Work – We See You and We Salute You!

A Message from the Bankruptcy Judges of the Middle District of Florida

The Court is grateful for all the work our Bar is doing on the pro bono front! Here's a little perspective and some important updates.

Notices to Pro Se Filers

Starting in September 2022, the Court began mailing (at the Court's expense) Division-specific notices to all pro se debtors that list the resources available to pro se bankruptcy parties, including our virtual and in-person clinics, legal aid organizations, and other valuable information. When directed by a judge, the Court also mails a notice to pro se creditors or defendants in adversary proceedings. Special thanks to Aaron Irving with Jacksonville Legal Aid for recently updating the notices to add QR codes for easier access to information.

From September through December 2022, the Clerk's office mailed 389 notices of pro bono resources to pro se filers; and in 2023, the Clerk's office sent 1,456 notices to pro se filers. Through March 2024, the Court has sent 422 notices to pro se filers.

The Middle District's Bankruptcy Virtual Pro Se Clinic

The Virtual Pro Se Clinic is an online platform through which pro se parties schedule a 30-minute free consultation by Zoom or telephone with an attorney.

In 2022, during the four months of the virtual clinic's operation (September to December), Middle District attorneys conducted 87 "no charge" consultations. In 2023, our attorneys conducted 492 consultations. And from January through March 2024, attorneys conducted 137 consultations.

Thanks to all the attorneys who have donated their time to consult with pro se parties (a full list is below, noting those who conducted ten or more consultations) and a special shout out to Traci Stevenson, who consulted with a whopping 285 pro se parties in 2023!

Now on to the not-so-good news. Although 192 attorneys have registered to provide consultations through the virtual clinic, only 22 attorneys actually conducted a consultation in 2023, and, between January and March 2024, only eight attorneys have consulted with a pro se party. In other words, while we applaud those who have signed up to serve as volunteer attorneys, what's really important, especially as

bankruptcy filings continue to increase, is for attorneys to follow up and provide consultations through the virtual clinic. If you have questions on how to get more involved, please go to www.bankruptcyproseclinic.com or contact the clinic's Website Administrator, John Schumpert, at johnschumpert@gmail.com.

The Court's Legal Assistance Program

The Court's Legal Assistance Program ("LAP") enables low-income individual debtors (and, in some instances, their spouses and former spouses) and low-income individual creditors to receive free legal services in certain types of contested matters and proceedings. Pro se parties may seek the appointment of a pro bono attorney by submitting an application to the Clerk's Office or may be referred to the LAP by the presiding bankruptcy judge.

The Court maintains a list of attorneys who have volunteered to accept a request to serve as a pro bono attorney for a qualifying low-income individual. We hope that all attorneys will consider volunteering for LAP by completing the form at: volunteer_form.pdf (uscourts.gov) and emailing it to: flmb_probono@flmb.uscourts.gov.

The Court recently updated the LAP to expand the types of matters for which LAP is available. These include:

- Adversary proceedings or motions relating to the debtor's entitlement to a discharge and/or the dischargeability of a debt, including motions for a hardship discharge under 11 U.S.C. § 1328(b).
- Contested matters concerning the debtor's claimed exemptions.
- Representation of spouses and former spouses of debtors in connection with the dischargeability of obligations under marital settlement agreements and/or judgments for the dissolution of marriage.
- Representation of an individual defendant in an action to recover money or property under 11 U.S.C. §§ 542, 544, or 547- 550.
- Other matters referred by the bankruptcy judge assigned to the case.

Thank you!

In addition to the formal pro bono programs discussed above, many consumer lawyers step up to assist pro se parties at in-person hearings, and during Zoom hearings, by providing their telephone numbers to the pro se parties. The Court appreciates this "real-time" assistance as much as the pro se parties do!

All of the Middle District’s bankruptcy judges are grateful to our volunteer lawyers, the continued support from our volunteer bar associations, and the great work of our legal aid organizations to support the virtual clinic, our in-person clinics, and other efforts to help pro se parties. We welcome input from the bar on how the Court can continue to support pro bono efforts and work together to continue to make improvements when and where needed.

Virtual Clinic Volunteers

Volunteers (2023)	Consultations in 2023
Traci Stevenson	285
Alec Solomita	37
Nina LaFleur	30
Luis Rivera	30
Michael Barnett	23
Kathleen DiSanto	21
Kristina Feher	15
Kevin Paysinger	12
Jonathan Sykes	12
Thomas Adam	
Andrea Anderson	
Robert Branson	
Nicole Carnero	
Gregory Champeau	
Eugene Johnson	
Amy Leitch	
Liz McCausland	
Allison Moscato	
Lauren Stricker	
Jonathan Tolentino	
Allan Wulbern	
Total Consultations in 2023	504

Volunteers (2024)	Consultations in 2024
Traci Stevenson	56
Michael Barnett	22
Nina LaFleur	18
Kathleen DiSanto	12
Luis Rivera	12
Alec Solomita	
Lauren Stricker	
Jonathan Sykes	
Total Consultations	
January through March 2024	134



Spotlight on Attorney Admissions

Tips from the CM/ECF Help Desk

Tip #1 – Keep your information current in CM/ECF.

Failure to update your email and mailing addresses can affect your access to CM/ECF and may mean that you are not receiving notifications of Court filings. To verify and update your contact information, go to: [Manage My Account Login | PACER: Federal Court Records \(uscourts.gov\)](#).

Tip #2 – Make sure you are admitted to practice in the United States District Court for the Middle District of Florida.

An attorney who wishes to appear or be heard as counsel in any case or proceeding in the Bankruptcy Court must be admitted to practice in the District Court. Information on admission is available at [Practice in the Middle District | Middle District of Florida | United States District Court \(uscourts.gov\)](#). Please note that admission is subject to renewal, and the next renewal period will occur in 2025.

Tip #3 – Familiarize yourself with Local Rule 2090-1.

Local Rule 2090-1 Attorneys – Admission to Practice and Pro Hac Vice Admission contains all the information you need, including limited appearances and special admission to practice that may not require admission to the District Court. You can review the rule on the Court's Local Rules page: [Local Rules | U.S. Bankruptcy Court Middle District of Florida \(uscourts.gov\)](#).

Tip #4 – Pro Hac Vice Admission – How-To

Local Rule 2090-1(c)(1) states that an attorney who is a member in good standing of the bar of a District Court of the United States other than the Middle District of Florida may appear pro hac vice provided that such privilege is not abused by frequent or regular appearances in separate cases to such a degree as to constitute the maintenance of a regular practice of law in the Middle District of Florida. The Source's procedures and forms located at [Motion to Appear Pro Hac Vice | U.S. Bankruptcy Court Middle District of Florida \(uscourts.gov\)](#) have the information and forms that you need for pro hac vice admission.

Tip #5 – Need help? Just ask!

Please contact the CM/ECF Help Desk for assistance at ecfhelp@flmb.uscourts.gov.



Judge Catherine Peek McEwen's Make Me Smile Column

The “McEwen Production Co.’s” quarterly-ish brown bags for lawyers new to bankruptcy practice are usually well received and helpful to lawyers both new and not-so-new. The series was originally started by Judge Tim Corcoran way back when, and my chambers picked it up from him and continued it. *Hodge Podge for \$400*, the most recent brown bag show, featured (among other things) the Department of Education’s new student loan discharge policy, which was especially eye-opening.

Assistant U.S. Attorney Grace Monnig and veteran bankruptcy lawyer Jeff Hakanson walked everyone through the process of getting a consensual discharge under 11 U.S.C. § 523(a)(8) in an efficient and collaborative manner. Here is a link to information about the discharge program: [Student Loan Discharge Guidance -- Guidance Text \(uscourts.gov\)](#). On top of that, Ms. Monnig alerted us to the existence of a program that ends on **April 30, 2024**, under which the DOE will consolidate student loans and run the term retroactively to the earliest of the loans. That program, coupled with the discharge program, can relieve a debtor of even more student loan debt. If your client’s case is over and closed, no problem! You can move to reopen the case under 11 U.S.C. § 350(b) and seek relief if the student loan is still outstanding. If you have questions about the student loan discharge, with or without the consolidation program, please call Ms. Monnig at 813-274-6145.

Within minutes of the conclusion of the brown bag, I received the following message from one of the attendees: “Thank you so much for today’s luncheon. I had no idea about the Federal Student Loan consolidation and the upcoming 4/30/24 deadline. I was able to call when I got off the Zoom, consolidate my loans and shaved 8 years off my repayment. The light at the end of my tunnel is now 8/10/2031 rather than 2039.”

Hodge Podge also included a thorough tutorial by Court IT Tech Acel Masar and Courtroom Deputy Pamella Arciola on why it is that lawyers and their staff have problems registering for and logging into a Zoom hearing. Ms. Masar's PowerPoint program was so easy to follow and informative that this is a must-see segment of the brown bag for those who are still having trouble getting into a Zoom hearing.

Other topics covered were Fed. R. Civ. P. 26 as applied in adversary proceedings and contested matters, what a "throw-away" binder is for a witness at trial, and the state court's new limited appearance rule, which a judge in our court may be willing to follow if asked.

If you missed the show, it is available in the Court's CLE website area. Go to The Source page and look for the CLE portal (or go here: [CLE Credits | Middle District of Florida \(uscourts.gov\)](#)) and sign in with your CM/ECF email address. And if you watch the whole thing, you can get 1.5 hours of free CLE credit, including .5 hours of hard-to-get technology credit!

MIDDLE DISTRICT OF FLORIDA BANKRUPTCY COURT

Chief Judge Caryl E. Delano
Sheryl L. Loesch, Clerk of the Court

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for attorneys registered in the Middle District

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24 hours a day, 7 days a week and cover a
ruptcy attorneys.

ease enter your Court issued CM/ECF login
entation materials. After login, you will be
lection area.

CEMENTEN'S MENTORING



In March, the CFBLA hosted a Happy Hour Sponsored by Fisher Auction Company. We had a Shamrockin' Good Time, and we all took some time to sing Happy Birthday to Judge Lori Vaughan.

CFBLA Shamrockin' Happy Hour



Our next upcoming CLE lunch is on May 15, 2024 - *Estimating a Personal Injury Claim in a Bankruptcy Lawsuit.*



Jacksonville Bankruptcy Bar Association
By: Eugene “Gene” Johnson, Esq., President

The Jacksonville Bankruptcy Bar Association’s 30th Annual Seminar will be held on August 16, 2024, at the Sawgrass Marriott Resort & Spa in Ponte Vedra Beach, FL.

The Seminar will begin with a discussion on cybersecurity by Mark Lanterman of Computer Forensic Services. Mr. Lanterman has provided training in digital evidence, computer forensics, and cybersecurity to the U.S. Supreme Court and numerous state and federal judicial conferences across the United States, including the Federal Judicial Conferences for the Eighth and Eleventh Circuits.

Following Mr. Lanterman’s presentation will be the Judges’ panel discussing recent case law updates. Notably, the panel will include each of the Judges from the Jacksonville, Orlando and Tampa Divisions of the Middle District and the Northern District of Florida.

After the Judges’ panel and lunch break, Professor Justin Sevier from Florida State College of Law will discuss the law of evidence. Professor Sevier focuses on legal institutional design, where he identifies and examines the conditions under which the public willingly legitimizes legal rules, actors, and tribunals. Professor Sevier explores his research questions primarily through psychology experiments in the law of evidence (studying both jury behavior and non-lawyers’ perceptions of trial outcomes), while also examining the role that popular legitimacy plays in shaping the law governing business torts and consumer behavior.

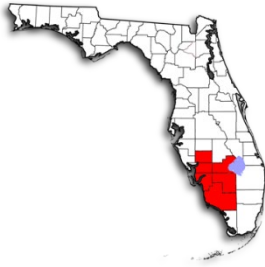
To close the Seminar, there will be two breakout sessions – a consumer session with a Mock Chapter 13 Trial and a business session focusing on Hot Topics in Business Bankruptcies, including Merchant Cash Advance Lenders.

Seminar Registration Information:

- Early Registration JBBA Members: \$300
- After 07/16/24 JBBA Members: \$350
- Early Registration Non-JBBA Members: \$400
- After 07/16/24 Non-JBBA Members: \$450
- Government: \$125
- Legal Assistant/Student: \$75

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To register by mail please make checks payable to JBBA and mail to: JBBA, 221 North Hogan Street, Box 249, Jacksonville, Florida 32202 and email Allison Abbott at allison.abbott@nelsonmullins.com. A limited number of Sawgrass Marriott rooms are available at a special rate of \$249.00 plus resort fee and sales tax. Call 904-285-7777 to make reservations and mention the “JBBA Seminar.” Please contact Angela Scott (angelas@ch13jaxfl.com) for sponsorship opportunities.



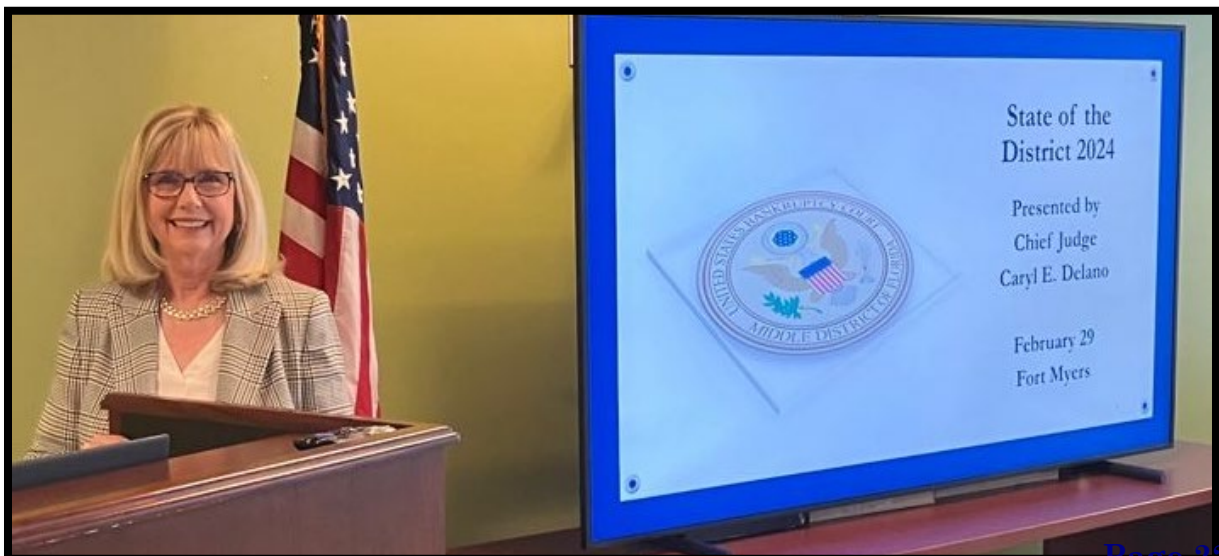
Southwest Florida Bankruptcy Professionals Association

By: Christian G. Haman, Esq., President

On February 29, 2024, the Southwest Florida Bankruptcy Professionals Association (SWFBPA) hosted Chief Judge Caryl Delano for her State of the District address, where members of the SWFBPA were briefed on some of the latest trends in our Division, our District, and beyond. Later that evening, the SWFBPA held a social hour at SOHO in downtown Fort Myers, where we were joined by Chief Judge Delano, U.S. District Court Judge Sheri Chappell, U.S. Magistrate Judge Nicholas Mizell, and many more. More events are in the works; do not hesitate to reach out to Christian Haman at chaman@dallagolaw.com to be among the first to learn about them!



(L to R): Judge Delano, Judge Mizell, and Judge Chappell



Judges' Corner

Judge McEwen Swears In 54 New U.S. Citizens

Judge Catherine Peek McEwen presided at her first Naturalization Ceremony on March 1, 2024. Because it was the first day of Women's History Month, the U.S. Citizenship and Immigration Services planned an all-woman event. Judge McEwen had the extreme honor of administering the naturalization oath to 54 women from 30 countries. She loved it and said it was "one of the best times I've had as a judge."



Judge Colton Celebrates "Vesting" Day

Judge Roberta Colton's Tampa colleagues and some dear friends celebrated the April Fools' Day anniversary of her 2016 swearing-in. A bankruptcy judge's eighth anniversary is called the judge's "vesting" day for passing the halfway mark to completion of the 14-year term of appointment. Hence, everyone wore vests, but there was a special one for Judge Colton!



Judge Delano Holds Special Swearing-In Ceremony



(L to R): Clare Robbins, Judge Delano, Andrew Robbins, and Charles Robbins

In April, Chief Judge Caryl Delano administered the Oath of Admission to The Florida Bar to her nephew and godson, Andrew Robbins. Andrew's parents, Charles and Clare (Judge Delano's sister) along with other family, colleagues, and friends, were in attendance for the ceremony in Judge Delano's courtroom.

Andrew, a Tampa native, graduated from New York University. He then served as a Lieutenant in the United States Navy, and upon completion of his military service, attended the University of California, Los Angeles, School of Law. He then returned to Tampa and is an associate attorney at Rywant, Alvarez, Jones, Russo, & Guyton.

Judge McEwen Administers The Florida Bar Oath



Member of New York Bar Derek Andersen gets sworn into The Florida Bar. Derek, an associate attorney at Holland & Knight, was Judge McEwen's summer intern in 2019. He liked Tampa so much that he decided to return. Pictured here (L to R): Louis Conti (senior partner at H&K), MacKenzie Thurman (Derek's girlfriend), Derek, Judge McEwen, and Leonard Gilbert (senior partner at H&K).



Bankruptcy attorney Lorraine Jahn holds the Bible for granddaughter-in-law Ashley Adams as Ashley gets sworn into The Florida Bar by Judge McEwen. Ashley is married to Lorraine's grandson Wesley Mershon and is a prosecutor for the State Attorney's Office in Tampa



Delaware lawyer Jeffrey Schlerf, a partner with GrayRobinson, gets sworn into The Florida Bar by Judge McEwen. Holding the Bible is Jeffrey's son Alex, a sports journalist.

Court News From Around the District



Four new case managers have joined the Court's staff:

Orlando Division
Dana Latham
Ro'Shaila (Shai) Williams

Tampa Division
Ann Dello Iacono
Ana Perez

And the Court's new programmer analyst is Jeffrey Pepper.

* * * *

Tampa Goes Wild!



*Tampa Division members sporting their animal prints at the quarterly breakfast on March 13.
(L to R): Chief Judge Caryl Delano, Ellen Morton (Intake Administrator / Case Manager),
Mary Maddox (Internal Controls Analyst), and Debbie Schubert Kerkes (Case Manager)*

* * * *

This Issue's Tech Tip



Is your choppy, thin audio quality at Zoom hearings annoying the judge?
Try a hard-wired microphone instead!

* * * *

A Year of Good Luck!



Chief Deputy Clerk José Rodríguez gets the baby from the annual Baby King Cake celebration in Tampa. So he gets a year of luck!

* * * *

ABI/Paskay Seminar Roundtable Hosts



*ABI/Paskay seminar roundtable hosts Barbie and Ken –
or is that Kathleen DiSanto and Luis Rivera?*



Case Law Update for Q2 2024

Editors:

Bradley M. Saxton, Esq. & Lauren M. Reynolds, Esq.
Winderwee, Haines, Ward & Woodman, P.A.
and
Kathleen L. DiSanto, Esq.
Bush Ross, P.A.

Eleventh Circuit Cases

The Alabama Creditors v. Dorand (In re Dorand)

95 F.4th 1355 (11th Cir. 2024)

Before the debtor filed for chapter 7 bankruptcy, his creditors obtained a \$1.6 million default judgment against him. Dorand's creditors attempted to enforce their judgment against his individual retirement account. Dorand took the position that the funds in the account were exempt from collection under Alabama's statutory exemptions, but this argument was rejected by the trial court, which, in turn, authorized Morgan Stanley to initiate the transfer of the funds. Before the transfer of the funds from Dorand's retirement account, however, Dorand filed his bankruptcy petition. So, as of the petition date, the funds remained in Dorand's account. The bankruptcy court concluded that it had jurisdiction to determine whether Dorand's retirement account was property of the bankruptcy estate or subject to a claim of exemption because the Alabama judgment did not extinguish Dorand's interest in his retirement account before he filed his bankruptcy petition. The bankruptcy court held that the funds in the retirement account were exempt under Alabama law. On direct appeal to the Eleventh Circuit, the Eleventh Circuit affirmed.

Bankruptcy Court Cases

Jaspup Prop. Holds., LLC v. Lekhraj (In re Lekhraj)

2024 WL 1357168 (Bankr. M.D. Fla. Mar. 29, 2024) (Vaughan, J.)

Debtor's discharge was barred under section 727(a)(4) based on Judge Vaughan's finding that the debtor acted with the necessary fraudulent intent in omitting several property interests and transactions on her bankruptcy schedules. The debtor used and paid the expenses for a BMW, but she failed to disclose her ownership of the vehicle on her schedules despite being listed on the car's title. The debtor claimed she believed the BMW and an Infiniti, which the debtor co-owned with her daughter and disclosed on her schedules, belonged to her daughter. Judge Vaughan found that claim incredulous. The debtor also failed to disclose rental income on her schedules and statement of financial affairs, in addition to the sale of real property, the proceeds of which were used to pay off a lien on her home. Although those failures may not have independently been sufficient to bar the debtor's discharge, but taken together, Judge Vaughan concluded they evidenced a pattern of nondisclosure that warranted the denial of the debtor's discharge.

In re Jordan

(Bankr. M.D. Fla. Mar. 28, 2024) (Geyer, J.)

Judge Geyer ruled that a proof of claim based on a loan installment agreement was not time barred because a partial payment made by the debtor tolled the five-year statute of limitations under Florida law.

HG Wellness, LLC v. Caro (In re Caro)

657 B.R. 888 (Bankr. M.D. Fla. 2024) (Geyer, J.)

Judge Geyer ruled that a chapter 7 debtor, who waived his discharge in a prior bankruptcy case, did not establish good cause to set aside a clerk's default obtained against him in a proceeding objecting to his discharge (and the dischargeability of a debt) in the debtor's second bankruptcy case. Judge Geyer found that the debtor willfully or intentionally disregarded the proceeding by failing to communicate with the creditor, failing to offer a countervailing affidavit opposing the motion for entry of clerk's default, and failing to attend a hearing on the motion for entry of clerk's default. Although Judge Geyer concluded she did not need to decide whether further good cause existed to set aside the default, she nevertheless reviewed the debtor's proposed answers and

defenses and concluded that the debtor failed to establish a meritorious defense.

In re Lincoln

2024 WL 878193 (Bankr. M.D. Fla. Feb. 29, 2024) (Colton, J.)

Judge Colton had entered an order dismissing debtor's chapter 13 case with prejudice and enjoining the debtor from filing another case for six months. The debtor filed a motion that Judge Colton construed as a motion for reconsideration. Judge Colton denied the request for reconsideration, ruling that her prior dismissal order and injunction were appropriate because the debtor had filed numerous prior cases in multiple jurisdictions, had been sanctioned in his local court and failed to pay the sanction, failed to file a plan, and failed to provide the proper identification to conduct the § 341 meeting in this case.

In re Friends of Citrus & the Nature Coast, Inc.

2024 WL 838035 (Bankr. M.D. Fla. Feb. 28, 2024) (Delano, C.J.)

Chief Judge Delano previously ruled that the debtor was entitled to prevailing party attorney's fees and costs on its successful objection to a creditor's proof of claim seeking indemnification under an asset purchase agreement. Judge Delano determined the debtor was entitled to fees and costs based on a prevailing party fee provision in a real estate purchase agreement, which Judge Delano determined was an integrated contract with the asset purchase agreement. The debtor filed a supplemental fee motion setting forth the amount of fees it claimed entitlement to. The creditor sought reconsideration under Rule 60(b)(6), asserting for the first time that the debtor's fee claim was governed by the parties' escrow agreement. The case was previously assigned to Judge Williamson, and the creditor also argued that Judge Williamson's passing provided grounds for relief under Rule 60(b)(6). Judge Delano concluded that the creditor failed to establish a basis for reconsideration of the fee entitlement order under Rule 60(b)(6). However, Judge Delano rejected the debtor's argument that the creditor was barred under the doctrine of res judicata from challenging the reasonableness of debtor's fees, which had previously been approved through the fee application process.

In re JWB Overland LLC

656 B.R. 518 (Bankr. M.D. Fla. 2024) (Geyer, J.)

Judge Geyer dismissed the chapter 7 case of a dissolved corporation with no assets under § 707(a). Judge Geyer first concluded that good faith is a requirement of all debtors seeking relief under any chapter of the Bankruptcy Code. Judge Geyer went on to find that the case was filed in bad faith. The debtor was not eligible for a discharge. And because the debtor was a dissolved corporation with no assets, it lacked an intent to achieve an orderly liquidation for the benefit of creditors.

In re Peterson

657 B.R. 271 (Bankr. M.D. Fla. 2024) (Burgess, J.)

Judge Burgess reopened a chapter 13 case to allow the debtor to file a motion for sanctions against purchase of assets for violating the discharge injunction. The purchaser asserted, among other things, that its remedy of specific performance was not a “claim” subject to discharge. Judge Burgess disagreed, finding that where Florida law provides an alternative remedy such as monetary damages, the claim is subject to discharge.



What's New?

Audio Recordings of Courtroom Proceedings

Digital audio recordings of courtroom proceedings are now available to order on flash drives. The fee for one flash drive is \$34. The link to The Source's updated page on procedures for requesting audio recordings, including the link to the request form, is [Audio Recording Requests - How to Request Audio of a Courtroom Proceeding | U.S. Bankruptcy Court Middle District of Florida \(uscourts.gov\)](https://uscourts.gov/audio-recording-requests).

Form Order Setting Deadline for Filing Response to Motion for Summary Judgment

Effective April 25, 2024, the Court will issue and serve an *Order Setting Deadline for Filing Response to Motion for Summary Judgment* for all summary judgment motions filed in bankruptcy cases and adversary proceedings. The order provides that responses to summary judgment motions must be filed within 21 days of the date of the Order, unless the Court has previously set a different briefing schedule.

Please note: The Court has removed motions for summary judgment from the [Negative Notice List](#) and has included a comment to Local Rule [7001-1\(k\)\(4\)\(F\)](#) to inform readers, pending an upcoming amendment to the rule, that motions for summary judgment are no longer eligible for negative notice.

More Updates to Negative Notice and Accompanying Orders Lists

Chapter 7 Motions for Relief from Stay:

- Motions may be served on negative notice (excluding requests for prospective relief).
- The moving party may submit an accompanying order if the debtor and Chapter 7 trustee consent, or if the trustee has filed the report of no distribution or notice of abandonment of the subject property, and the motion so states.

Chapter 13 Motions for Relief from Stay:

- Motions as to debtor may be served on negative notice (excluding requests for prospective relief).
- The moving party may submit an accompanying order if the debtor and Chapter 13 trustee consent to the relief requested.

Chapter 11 Motions for Relief from Stay:

- Motions may be served on negative notice with the consent of debtor and trustee (if any); 14-day notice for service on Unsecured Creditors' Committee.
- Moving party may submit an accompanying order if a Creditor's Committee has been appointed and the Committee, debtor, and trustee (if any) consent.

Adversary Proceedings:

- Motions related to discovery may be served on negative notice.
- The moving party may submit an accompanying order on motions to compel discovery responses if the responding party has failed to respond to a discovery request; the motion does not include a request for sanctions, waiver of objections, or deemed admissions; and the proposed order gives the respondent 14 days to produce documents or respond to the discovery request.

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For details on all these updates and more,
please check the announcements page on the Court's website at:
[Announcements & News | U.S. Bankruptcy Court Middle District of Florida](https://www.uscourts.gov/announcements)
[\(uscourts.gov\)](https://www.uscourts.gov).

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And always keep an eye on your inbox for emails regarding updates from the Court!

Statistics



Nation-Wide Filings Rise 16% Over Previous Year

Bankruptcy filings rose 16 percent during the 12-month period ending March 31, 2024. That is a similar rate of acceleration as in the December 31, 2023 quarterly report, but new bankruptcy cases remain significantly lower than before the start of the coronavirus (COVID-19) pandemic.

According to statistics released by the Administrative Office of the U.S. Courts, total filings rose to 467,774 new cases, compared with 403,273 cases reported during the year ending March 31, 2023.

Business filings increased 40.4 percent, from 14,467 in March 2023 to 20,316 in the newest report. Non-business filings rose 15.1 percent, from 388,806 in March 2023 to 447,458 in March 2024.

This year's 12-month filing total for the quarter ending March 31 is nearly three-fifths of the total reported in March 2020, when the pandemic disrupted the U.S. economy. That year's 12-month total was 764,282.

Published on April 25, 2024, on www.uscourts.gov, the website maintained by the Administrative Office of the U.S. Courts on behalf of the Federal Judiciary.



Middle District Filings Increase Over National Average

Bankruptcy filings in the Middle District of Florida were up 26.5% during the 12-month period ending March 31, 2024. The Middle District's national rankings for the period are:

Total Cases – 4th (17,579)
Chapter 7 Cases – 2nd (12,749)
Chapter 11 Cases – 7th (309)
Sub V Chapter 11 Cases – 1st (208)
Chapter 13 Cases – 10th (4,518)
Adversary Proceedings – 2nd (638)