THE BANKRUPTCY ADVISOR

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FINANCIAL MANAGEMENT COURSE: OFFICIAL FORM 23 REQUIRED FOR DISCHARGE

The Bankruptcy Reform Act of 2005 sets forth new discharge requirements for debtors who file individual Chapter 7 or 13 cases. Under the Bankruptcy Code provisions relating to discharge of debtors, individual debtors must complete an instructional course in personal financial management after the filing of the petition. To demonstrate compliance with the requirement, the debtor must file Official Form 23, Debtor's Certification of Completion of Instructional Course in Personal Financial Management. *[See Interim F.R.B.P. 1007(b)(7).]*

The similarity in Official Form 23 and the documentation provided by financial instructors has caused some confusion among debtors' attorneys in the district. Many attorneys have filed a "certification" provided by the financial management course instructor as evidence of completion of the educational course.

The Clerk's Office, however, has adopted the position that Interim Rule 1007(b)(7) requires Official Form 23 to be filed to fulfill the debtor education requirement. The certification supplied by the education course provider may be attached to the Official Form, but the Official Form 23 must be filed before an Order Discharging Debtor can be entered in either individual Chapter 7 and Chapter 13 cases. The requirement does not make a distinction as to whether the Voluntary Petition lists primary consumer or business debts. Accordingly, the requirement applies to all individual debtors and not just those with consumer debts.

See Related Article on Page 2

The Bankruptcy Code provides for exceptions to the debtor education course. Debtors may be exempt from the requirement if (1) the debtor is incapacitated or disabled; (2) the debtor is on active military duty in a military combat zone; or (3) the debtor resides in an area in which there are no approved courses available. To apply for exemption, the debtor must still file a Form 23 and complete the section of the form indicating that the debtor meets one of the approved exceptions. The debtor must also file a separate Motion for Exemption from Financial Management Course.

The timing of filing Form 23 is also very important. In Chapter 7 cases, the debtor must complete the financial management education course after the filing of the petition and must file Form 23 before the deadline for objecting to discharge. In Chapter 13 cases, the form must be filed before the last payment under the plan. In either case, failure to file the form could result in the case being closed without a discharge being entered.

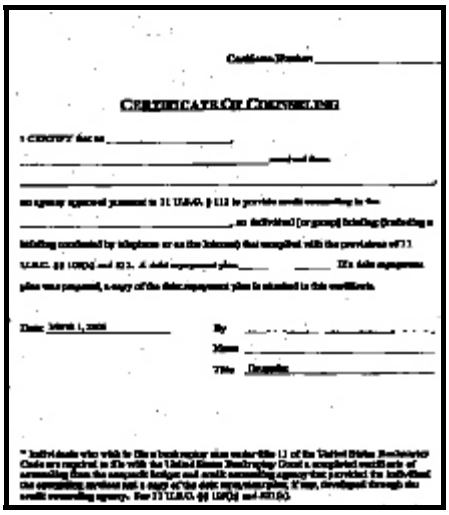
FILING FEES INCREASE EFFECTIVE APRIL 9

CHAPTER 7 FEE INCREASES TO **$299.00**
CHAPTER 13 FEE INCREASES TO **$274.00**

Additional fee increases are being considered by Congress but have not been approved as of the publication of this newsletter. A complete fee schedule is published on our web on **www.flnb.uscourts.gov** and on the ***HelpCenter***.

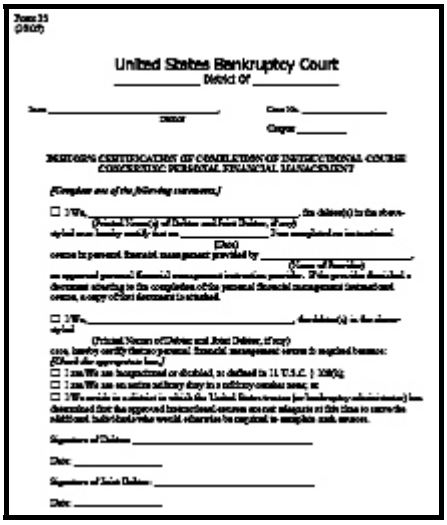
CREDIT COUNSELING COURSE AND FINANCIAL MANAGEMENT COURSE: MAKING SENSE OF THE NEW *BAPCPA* REQUIREMENTS

The *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005* (BAPCPA) sets forth new requirements for debtors which seem similar in name but are vastly different from how they are applied and how they may affect the potential outcome of the case. Listed below are facts which distinguish the filing requirements for the Credit Counseling Course and the Debtor Education Course in Personal Financial Management.



Credit Counseling Course

- ✓ Course taken within 180 days before the filing of the petition;
- ✓ Certification of completion of the course should be filed at the same time as the petition;
- ✓ No official form required at this time, but one is being developed. We will communicate to ECF users when the form is introduced and becomes a filing requirement. Most credit counseling providers supply the debtor with a certification. The certification may vary in appearance by different providers;
- ✓ Failure to file the form as required could result in the case being dismissed.



Financial Management Course

- ✓ Course taken after the filing of the petition;
- ✓ Official Form 23 must be used. Financial management course providers may supply a certification form, but the form may not be used in lieu of Form 23. It may be attached to Form 23;
- ✓ Chapter 7 - Form 23 must be filed by the deadline to object to discharge;
- ✓ Chapter 13 - Form 23 must be filed before the last plan payment;
- ✓ Form 23 must be filed even if debtor is filing a Motion for Exemption From Financial Management Course;
- ✓ Failure to file the form as required could result in the case being closed without an Order of Discharge being entered.

Tips & Tricks: Filing Fees

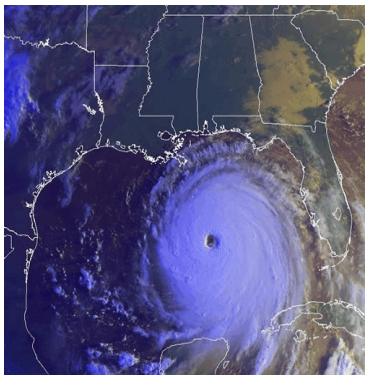
Having trouble paying your filing fees? When you finish filing a petition or pleading, does the payment screen not appear? It may be that you have a pop-up blocker turned on. Often many of us have multiple programs running on our computers and do not realize that, while we may have turned off the pop-up blocker in *one* of our toolbars, we did not turn it off in the others. Many programs other than the web browser have the capability to block pop-up windows. More often than not, this useful tool is what prevents ECF users from being able to pay their filing fees. If you feel like you did miss a fee, you have the ability to complete the fee transaction under the *Utilities* menu of CM/ECF.

Having Password Problems?

With so many different screen names, PIN's, and passwords in every aspect of our lives now, it's no wonder that we can't keep up with them all! If you have forgotten your CM/ECF login or password, or if it just doesn't seem to be working, call Kathy Conn to have it reset. Mrs. Conn can be reached at (850)435-8475, 9:00 a.m. to 4:00 p.m., Central Time.

To protect your account access you should also make it a regular practice to change your password whenever you have staff changes.

Clerk's Office Prepares For 2006 Hurricane Season



Oh, how quickly hurricane season comes back around! We've learned a lot since Hurricane Ivan temporarily shut down our Pensacola office in 2004 and Katrina disrupted telephone and internet service in 2005. While we certainly hope we never see a repeat of last year, the Clerk's Office is prepared - just in case. We want to ensure that any interruption in service to our customers will be brief and painless. To do this, we have developed emergency operations plans which address disruptions of automation or telephone services, personnel coverage of the offices, and many of the other day-to-day functions of the Court.

In the event of office closures or interruption in services, messages will be posted to the Court's website advising of such and will include information on cancelled hearings, if applicable, and alternate contact information. The Clerk's Office phones will also have a recorded message providing this information. Both will be updated regularly as the situation warrants.

Chapter 13 Plan Confirmation: Why does it take so long?

Everyone wants to have the Chapter 13 Plan confirmed as quickly as possible and it's in everyone's best interest to do so. Unfortunately there are a few common obstacles that must first be dealt with in many cases. The good news, however, is that these obstacles are often preventable.

The most common road-block to confirmation is *lack of proof of circulation* or *untimely circulation* of the plan or amended plan. The *Order and Notice of Hearing on Confirmation and Fixing Time to File Objections* requires the debtor's attorney to send a copy of the proposed plan to all creditors and parties-in-interest and to file a prompt certificate of service to that effect. The plan must be circulated as soon as possible to allow adequate time for objections prior to the hearing. If the plan is not circulated, or if the certificate of service is not filed, the confirmation hearing must be rescheduled. Another frequent culprit which delays confirmation is the failure to amend a plan after the claims bar date has passed. Often claims are filed for debts which were not addressed or which are for different amounts than stated in the initial plan. Affected creditors frequently file objections which must be addressed before the plan can be confirmed.

Confirmation in cases filed prior to the Bankruptcy Reform Act are subject to delay when the debtor fails to submit tax returns or pay stubs to the Trustee. Cases filed since the Reform Act took effect are now subject to automatic dismissal if the appropriate documents are not provided to the Trustee in a timely fashion.

Court Staff Attend Bankruptcy Operational Practices Forum

Three members of the Northern District of Florida attended the 2006 Bankruptcy Operational Practices Forum in February. Melissa McClure, Bruce Justham and Kevin Davis were among the 250 guests representing over 80 courts at the event.

It was no surprise that the key topics surrounding the break-out sessions of the forum concentrated on office practices and procedures related to the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA).

A common theme among the representatives was the diverse operational practices concerning key elements of the Act including new mandates placed upon attorneys, trustees and court staff.

The event also provided court staff with an opportunity to discuss the CM/ECF system and to receive a sneak preview of the newest version (Version 3.0) of the electronic filing application. The new version includes many enhanced features which include a new look for the court calendar as well as additional menu options for court users and for attorneys. The new version is expected to be installed and tested in this district in the upcoming weeks. Training information and installation on the live CM/ECF system is tentatively set for the summer.

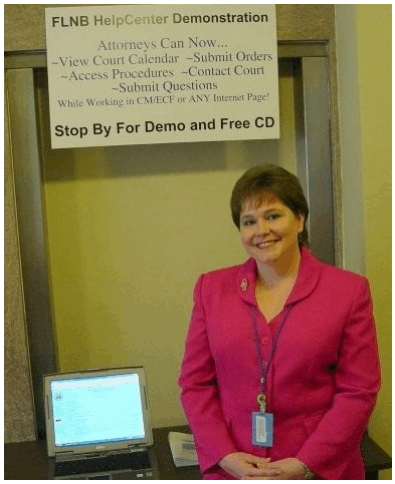
Demonstrations of FLNB HelpCenter Underway

The latest reviews are in and the FLNB HelpCenter is a hit! The HelpCenter is a locally designed court application which opens from any page on your web browser. It was designed to provide a single location for our customers to ask questions, access court calendars, obtain documentation and contact information, and submit proposed orders, all from a single web browser without leaving the screen in which you are currently working.

Demonstrations of the HelpCenter have already been provided on 341 Meeting dates in Pensacola and Tallahassee. Demonstrations in Gainesville and Panama City will soon be scheduled.

One of the newest and best features of the HelpCenter is the pull-down calendar that allows attorneys to search for only those cases in which they are involved. The calendar can be viewed or printed from the HelpCenter without ever going into the CM/ECF system.

You can download the HelpCenter from the Court's website at www.flnb.uscourts.gov under the Clerk's Online Forums link. If you prefer, we can mail you a CD or come to your office to demonstrate and install the HelpCenter. Also look for demonstrations outside the 341 Meeting rooms in each location. For more information, email Luke Adams at Luke_Adams@flnb.uscourts.gov.



Julie Gibson, Court Services Specialist, provided attorney demonstrations of the FLNB HelpCenter in Tallahassee on March 23.

Advisory Group Forming

The Clerk's Office would like to establish a User's Advisory Group to assist with the development and implementation of the CM/ECF system, Clerk's Office procedures, test new products and other issues affecting our customers. The group would consist of attorneys, trustees, members of the Clerk's Office and other interested parties. The purpose would be to provide comments and feedback to the Clerk's Office on a range of issues and to disseminate information. If you would like to participate with the Clerk's Office on the project, please contact Kevin Davis at (850) 435-8473 or Kevin_Davis@flnb.uscourts.gov.

Reaffirmation Agreements: Forms and Hearings

Section 203 of the Bankruptcy Reform Act requires reaffirmation agreements submitted in cases filed after the implementation of the BAPCPA ("Post-Act Cases") be filed on Form B240. Agreements not filed using the correct form will not be accepted by the Court and will result in the issuance of an Order to File Papers in Proper Form.

Additionally, hearings will be scheduled for Court approval of the following types of Reaffirmation Agreements filed in Post-Act Cases: • Agreements filed in pro se cases • Agreements in which the debtor is pro se for the purposes of the reaffirmation (Part C not signed by the attorney) • Agreements indicating undue hardship.

Pre-Act Cases, cases filed prior to the enactment of the BAPCPA, will continue to be processed in the manner in which they were handled before. There is no specific form requirement (although you may use B240 if you wish), no determination of undue hardship, and are only to be set for hearing if the debtor is pro se.

Did you know…?

PACER (Public Access to Court Electronic Records) has a United States Party/Case Index, a national locator for PACER systems in the United States appellate, district and bankruptcy courts. The U.S. Party/Case Index allows searches by party name or social security number in the bankruptcy index. The information provided by the search will include the party name, the court where the case is filed, the case number and the filing date. The U.S. Party/Case Index is on the World Wide Web at http://pacer.uspci.uscourts.gov. If you are a subscriber to PACER, you will automatically have access to the U.S. Party/Case Index with your existing login and password.

Question:
How can I print a court calendar or 341 Meeting calendar listing only MY cases?

Answer:
The FLNB ***HelpCenter***.

PDF FILE SIZE

Occasionally ECF users who are trying to file large documents in a case will call the HelpDesk because the system "times out" on them or they get an error message.

The maximum allowable file size is 5MB (approximately 5000KB). To determine the size of your document, open the document and press *Ctrl-d (or "File" then "Document Properties")*. The "Document Properties" screen will appear in which the file size is listed. For large documents, we suggest separating the document into multiple pdf files containing 10-15 pages each.

For example, if you wish to file a scanned, 27-page document as an exhibit, it would be a large file and probably exceed the maximum limit. If this document were broken down into multiple files (ex: Exhibit pp 1-10; Exhibit pp 11-20; etc.), you would be able to attach all the files to a single docket entry and the process is much faster than attempting to attach a single large file. Your first file (Exhibit pp 1-10) would be attached as the main document and additional files would be attached by selecting "Yes" beside the "Attachments to Document" option located directly below the filename box. This will direct you to a new screen where you may attach the remaining pdf files. Not only will this process guarantee that your document will be accepted by the system, it also makes viewing the document from the docket much faster.

ECF Essentials: New and Modified Events		
Event Name	**Docket Text**	**Locating the Event**
Exhibit *Event added to Adversary category*	**Exhibit**	**Adversary > Notices & Other Miscellaneous** **Bankruptcy > Other/Operating Reports/Misc**
Exhibit List *New Event*	**Exhibit List**	**Adversary > Notices & Other Miscellaneous** **Bankruptcy > Other/Operating Reports/Misc**
Access to Restricted Documents *New Event*	**Motion for Access to Restricted Documents**	**Adversary > Motions and Applications** **Bankruptcy > Motions / Applications**
Tax Documents *Prompt added for date to Trustee*	**Tax Documents for year {prompt}. Provided to the Trustee: {prompt}**	**Bankruptcy > Other/Operating Reports/ Misc**
Chapter 7 Statement of No Means Test Requirement (Primarily Business Debt) *New Event*	**Debtor(s) Statement that the debts listed on the schedules filed herein are primarily business debts and that the means test form (Form 22A) is not required.**	**Bankruptcy > Other/Operating Reports/Misc**
Financial Management Course Certificate (Official Form 23) *Name Change*	**Financial Management Course Certificate. Course completed on {prompt}**	**Bankruptcy > Other/Operating Reports/Misc**
Check our website for a current version of the complete Event List.		

HELP DESK HINTS: HAVE YOU CLEARED YOUR CACHE?

Your computer stores data in temporary files (the "cache") to make loading previously visited web sites faster. When you clear your cache, you are deleting these temporary files. This frees up space on your hard drive, but most importantly it is a quick and easy security measure to protect yourself against hackers.

If you have ever gone to a website and had "Welcome back *[your name]!"* appear at the top of the screen, it's because cookies from that site have been stored in your cache, along with bits of personal information previously provided by you. Additionally, because the website data was retrieved from your cache rather than being downloaded each time you access the site, you may not have the most recent information available to you, including information in CM/ECF.

To clear your cache, first open Internet Explorer. Click on the "Tools" button in the toolbar. Locate the "Temporary Internet files" section and the "Delete Cookies...", "Delete Files..." and "Settings..." buttons. Click the "Delete Cookies..." and "Delete Files..." buttons. Depending on the amount of data stored, it may take a minute (or more) to clear these files. The "Settings" button will take you to another screen where you may edit the frequency in which your computer will check for newer versions of stored pages or set the amount of disk space available for these temporary files.

IN THE SPOTLIGHT

The U.S. Bankruptcy Court congratulates the following employees who recently celebrated milestones in government service:

DONNA FAIRCLOTH - 15 YEARS

Tallahassee

Donna is the Financial Administrator for the Bankruptcy Court in the Northern District of Florida. She began her court career in February 1991 as a Financial Deputy with Chapter 7 Case Administrator Duties, performing the dual responsibilities for approximately two years before taking over all of the financial duties for the District. Donna develops and executes the Court's budget and is responsible for the safe-keeping, accounting and reporting of monies received by the court in accordance with guidelines established by the Administrative Office.

KEVIN DAVIS - 10 YEARS

Pensacola

Kevin entered federal service in March1996 after ten years as a paralegal and Office Administrator with a regional bankruptcy firm in northwest Arkansas. As a Case Administrator with the Bankruptcy Court in Western Arkansas, Kevin also worked as part of the CM/ECF project team. In July 2002, he joined the Florida Northern court family as the Deputy-in-Charge of the Pensacola Divisional Office and now serves as the Director of Court Services and Public Affairs. His duties consist of managing the activities of the Court Services Division which include: training, CM/ECF maintenance, customer service, research and product development and assisting with implementation of court policies and procedures.

DEBRA COOK - 5 YEARS

Tallahassee

Debra joined the Tallahassee Clerk's Office in February 2001 as an Intake Clerk and is currently a Case Administrator/Cashier. Her out-going personality and willingness to help has made her an invaluable asset as the first point of contact most of the public has with the Clerk's Office. She came to us from the Florida Department of Revenue where she was a Specialist with the Court Unit in the Child Support Enforcement division. When asked about her time with the court, Debra replied, "I am grateful that we are a paperless court"!

Question:
How can I submit a proposed order while working in CM/ECF?

Answer:
The FLNB ***HelpCenter***.

COURTROOMS GOING WIRELESS

Approval has been provided by the Bench and Bar Fund for the Northern District of Florida to pay for wireless internet access in all of the courtrooms in the District. They have also approved for similar access to be provided in the trustee meeting space in Tallahassee and the jury assembly room in Gainesville so that internet connections can be made by the trustees and the bar during all 341 Meetings. This will allow attorneys to log in to the CM/ECF system during court hearings and creditor meetings. The installation of the service and equipment is being handled by the U.S. District Court automation staff and we anticipate it will be available for your use by early summer.

FLNB RESOURCES

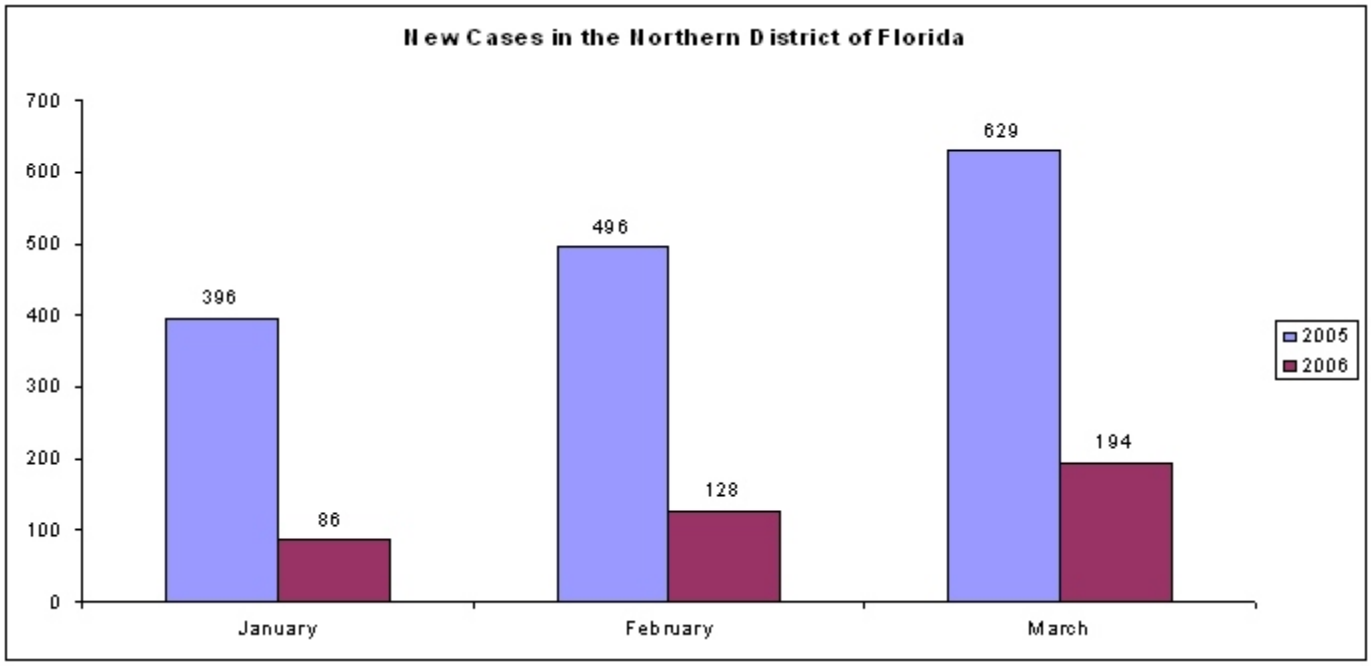
MAIN PHONE NUMBERS:
Tallahassee: (850) 521-5001
Pensacola: (850) 435-8475

HELP DESK:
Tallahassee, Gainesville & Panama City Divisions
(888) 765-1752

Pensacola Division
(888) 765-1751

E-mail Help: CMECF_helpdesk@flnb.uscourts.gov

EMAIL ADDRESS FOR PROPOSED ORDERS:
Cases filed in Tallahassee, Gainesville or Panama City Divisions:
TLH_Orders@flnb.uscourts.gov

Cases filed in Pensacola Division:
PNS_Orders@flnb.uscourts.gov

COURT WEB SITE:
www.flnb.uscourts.gov