



THE BANKRUPTCY ADVISOR



Volume 6, Issue 1

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TRANSITION IN SERVICES COMING IN APRIL



The Office of the Clerk is preparing for operational changes that will streamline services offered to the public. The centerpiece of the plan includes consolidating in the Tallahassee office some of the telephone and scanning services currently performed for occasional court users in the Pensacola divisional office. Regular court users should notice only subtle differences when the plan takes effect on April 14.

Under the plan, general phone calls made to the primary telephone number for the Pensacola office will be directed to and answered by selected staff in Tallahassee. Calls to the ECF Help Desk will be answered from Tallahassee as well from 9:00 a.m. to 4:00 p.m. Eastern time. Also, documents filed on paper, such as the Proof of Claim form, will have the Tallahassee office address as the location for documents to be sent for filing. The paper documents will be scanned and processed in Tallahassee for cases throughout the district.

In turn, this transition will allow the Clerk's Office to dedicate more resources to serve our regular customers. By centralizing the main telephone and non-attorney scanning services, it will enable Case Administrators in both offices to focus more on the needs of the customers who have routine contact with both offices. Case Administrators in both locations will continue to be available, including direct phone access, to assist members of the bar with case information. If needed, direct contact information for our Case Administrators is posted under the "Contact Us" tab on the court's website which is www.flnb.uscourts.gov.

In finalizing the plans, Bill Blevins, Clerk of Court, stated *"These changes will make the organization more efficient for the general public and give us the ability to do a better job serving our attorneys."*



CHAPTER 11 QUARTERLY FEES INCREASE

The Consolidated Appropriations Act of 2008 contains a provision requested by the Department of Justice that increased the quarterly fees on disbursements paid by chapter 11 debtors. The Act raises the quarterly fees in all disbursement bands and creates three new upper bands based on quarterly disbursements.

The new fees went into effect on January 1, 2008, and are first due from chapter 11 debtors to the United States Trustees for deposit into the Treasury by the end of April 2008. The chart below itemizes the amount of the old fee, new fee and amount of increase.

New Chapter 11 Quarterly Fees – Effective January 1, 2008			
Quarterly Disbursements	Old Fee	New Fee	Increase
\$0 to \$14,999.99	\$ 250	\$ 325	\$ 75
\$15,000 - \$74,999.99	\$ 500	\$ 650	\$ 150
\$75,000 - \$149,999.99	\$ 750	\$ 975	\$ 225
\$150,000 - \$224,999.99	\$ 1,250	\$ 1,625	\$ 375
\$225,000 - \$299,999.99	\$ 1,500	\$ 1,950	\$ 450
\$300,000 - \$999,999.99	\$ 3,750	\$ 4,875	\$ 1,125
\$1,000,000 - \$1,999,999.99	\$ 5,000	\$ 6,500	\$ 1,500
\$2,000,000 - \$2,999,999.99	\$ 7,500	\$ 9,750	\$ 2,250
\$3,000,000 - \$4,999,999.99	\$ 8,000	\$ 10,400	\$ 2,400
> \$5,000,000	\$ 10,000	n/a	Discontinued
\$5,000,000 - \$14,999,999.99	n/a	\$13,000	New
\$15,000,000 - \$29,999,999.99	n/a	\$20,000	New
>\$30,000,000 or more	n/a	\$30,000	New

MOTION FOR ENTRY OF CHAPTER 11 DISCHARGE

The new form, "Individual Debtor(s) Motion for Entry of Discharge – Chapter 11" is posted on our website as Local Form 26. This form was developed for the convenience of the filer and includes the certifications required by Section 1141(d)(5)(A) of the Code. Please notice that there is a negative notice box at the top of the form which gives interested parties 20 days to file objections to the motion. This event will also set a 20-day response deadline in the Clerk's Office at which time, if no objections have been filed to the motion, the Case Administrator will forward the case to Chambers for discharge review.

All Local Forms developed for use in this district are posted on our website under the "Forms" tab (http://www.flnb.uscourts.gov/forms/local_forms.aspx).

REMINDER

Please do not include the debtor, debtor's attorney, or the Clerk's Office on mailing matrices when filing a new case!

These addresses are added automatically when a matrix is requested from the CM/ECF system.
Thank you!

ECF Essentials

There are several CM/ECF items to note in this issue of *The Bankruptcy Advisor*, some of which were implemented at your request! *Keep the suggestions coming!*

- A new ECF Event list has been posted to the Court's webpage (http://www.flnb.uscourts.gov/documents/filing_events/3.1_event_list.pdf). This alphabetical list contains all of the public filing events contained in our CM/ECF system, along with the location of each.
- Lost your password? Avoid having to call us by clicking the new link on the login page just above the login and password fields.

Lost Passwords and Password Changes:

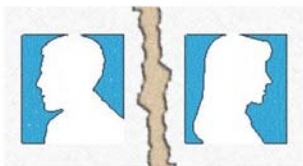
If you have lost your CM/ECF password or the password you recall does not work or you would like to change your password, you can request a new password by [clicking here](#). This process only works for CM/ECF accounts and will not work for PACER accounts. PACER users should contact the [PACER Service Center](#) for help with login and password issues.

- We've also moved some things around a little to make finding **Mailing Information** easier for you. Now get creditor mailing matrices, mailing info for a case, mail labels by case or recipient type, and/or mail notification requests from the Bankruptcy main menu screen.
- **Email Summaries:** If you haven't noticed yet, all Notices of Electronic Filing that are sent in the daily summary now have the chapters included for quick reference.
- Don't know if you're in PACER or CM/ECF? Look for the new identifier in the dark blue tool bar to let you know how you are logged in. Just to the right of the CM/ECF logo, you will see your registration type (attorney, creditor, etc.) or the word "Pacer."



MOTIONS TO SEVER OR BIFURCATE

Occasionally it becomes necessary to deconsolidate a jointly-filed case. A specific docket event exists for the filing of these motions (Sever/Deconsolidate). When filing a Motion to "Sever" or "Bifurcate," unless your motion specifies which debtor is being severed from the case, the joint-debtor will be severed. A new case will be opened for the joint debtor while the original case will proceed for the remaining debtor.



The Motion to Sever cannot be coupled with any other motion (improper joinder per Local Rule 7007-1(B)). A Motion to Dismiss or Motion to Convert must be filed separately from the motion to sever as they require a separate fee and/or order action in ECF. After the order granting the motion to sever has been entered, any motion to dismiss or motion to convert may be filed in the applicable case.

Tips & Tricks: PACER U.S. Case Party Index

Did you know that you can check prior case filings throughout the country using the PACER U.S. Case Party Index? You can also obtain basic case information such as filing dates, discharge or dismissal dates, or determine whether or not a party is involved in federal litigation. Check the PACER website for more information! (<http://pacer.psc.uscourts.gov/uspci.html>)



FROM THE BENCH

By: Lewis M. Killian, Jr.
United States Bankruptcy Judge
Northern District of Florida

CHAPTER 11 REMINDERS

REMINDERS As the economy slows and foreclosures rise, we have been experiencing an increase in chapter 11 filings in this district. Just in the month of January 2008, we had five new chapter 11 cases, compared to a total of 21 for the entire year of 2007. A number of these are fairly small cases filed by attorneys without a great deal of experience with chapter 11's. The purpose of this article is to remind counsel of some of the requirements imposed on debtors-in-possession (DIP) and to point out some mistakes that I have observed.

Prior to filing a case under chapter 11, an attorney should review, and be thoroughly familiar with, the provisions of Administrative Order 05-001, which is on the court's website. One of the first items set forth in that order is the requirement for filing a Chapter 11 Case Management Summary. This summary is to be filed within the earlier of three business days following the petition date or the date of the first scheduled hearing in the case. Thus, if the DIP seeks to obtain what are commonly known as "first day orders," the summary should be filed with, or immediately after, the petition. That order also identifies matters normally covered in the "first day orders" which receive expedited consideration. If necessary, these matters may be heard on the first day, subject to the availability of a judge and prior arrangements having been made with my JA. While these matters will normally be heard within three business days, I may afford them a degree of urgency commensurate with that given it by the DIP's attorney. A motion filed two weeks after the petition may not receive the same expedited treatment as one filed on the first day. In summary, if you want your case to get off on the right track, you need to do a good bit of work before you file the petition.

From reviewing many of the chapter 11 cases filed since the enactment of BAPCPA, I get the feeling that there exists some misunderstanding regarding the designation of a debtor as a "small business debtor" on the face of the petition, thus triggering the small business provisions of chapter 11. As we all recall, prior to BAPCPA, a debtor engaged in commercial or business activities with aggregate debts not to exceed 2 million dollars could elect to be treated as a small business debtor. This election allowed for the expedited consideration of the plan and disclosure statement, but also imposed tighter deadlines on the debtor for filing the plan. Under BAPCPA, this election is no longer an option. Section 101(51C) defines a "small business" case as one filed under chapter 11 in which the debtor is a small business debtor. A small business debtor is defined in (51D) generally as a person engaged in business or commercial activities (with certain exceptions) with aggregate noncontingent liquidated debts not to exceed 2.19 million dollars and where the U.S. Trustee has not appointed a committee of unsecured creditors. The face of the petition requires the debtor to specify whether or not it is a small business debtor and whether its noncontingent liquidated debts are less than \$2,190,000. The selection of which boxes to fill in, or not, on the face of the petition constitutes a representation of fact having significant consequences and is subject to the requirements of Rule 9011. The requirements imposed on small business debtors are significantly different than those imposed on non-small business debtors. Furthermore, under Bankruptcy Rule 1020, such designation controls the status of the case unless, and until, the court enters an order finding that the debtor's statement is incorrect. Thus, the designation is not an election, it is a statement of fact. Counsel need to insure accuracy when the petition is filed. If it is determined that an improper designation was made in order to avoid the small business provisions of BAPCPA, counsel may be subject to Rule 9011 sanctions.

Under BAPCPA, it is very important that chapter 11 debtors comply with all of the requirements imposed by the
See "From the Bench" on Page 5

BOARD OF ADVISORS MAKING A DIFFERENCE

Though still in its infancy, the Attorney Board of Advisors has already had an impact on how the Office of the Clerk serves members of the bar in the Northern District of Florida.

The group was formed less than one year ago to act as a permanent forum for bankruptcy practitioners to provide feedback and suggestions to the Clerk's Office on various topics affecting members of the bar. Board members have provided valuable insight on such issues as communications with the bar, form changes and improvements to court products such as the HelpCenter application and the court's website. One of the more recent contributions includes the requirement for attorneys to list a valid email address on all pleadings filed with the court. The suggestion has been incorporated into a requirement included in the revised Administrative Procedures for electronic filing.

Board members were asked to serve for a one-year term beginning in July, 2007. The members for the 2007-2008 term are as follows:

Jason Egan	Sherry Chancellor
Sharon Sperling	Jim Sorenson

The Attorney Board of Advisors meets quarterly in Tallahassee with the Clerk of Court and other members of the Clerk's Office staff. The next meeting is scheduled for May 13, 2008 at 1:30 p.m. Eastern time. If there are issues you would like the Board to consider, contact any Board member. If you are interested in serving on the Attorney Board of Advisors, please call Kevin Davis at 850-435-8473.

NEED TRAINING?

Another of the new features on our website under the "For Our Attys." tab is the ability to request training online or to see when our next training session is scheduled.


Simply provide us with your name, email address, phone number and what type of training you would like to receive. Julie or Kevin will contact you as soon as possible to set something up.

We can train you and/or your staff in our office or yours. Feel free to let us know when we call if there is something specific with which you need assistance (filing attachments, finding events, etc.) or if you just want a basic refresher.

We will coordinate with you to make sure you get just what you need!

Home	CM/ECF	Calendars	For Our Attys.
Training			
Request Training		FLNB Training Opportunities	
Your Name:	<input type="text"/>	<ul style="list-style-type: none"> • May 15 - Tallahassee • May 16 - Pensacola 	
Your Email Address:	<input type="text"/>	<ul style="list-style-type: none"> • July 30 - Pensacola • July 31 - Tallahassee 	
Your Phone Number:	<input type="text"/>	<ul style="list-style-type: none"> • September 16 - Tallahassee • September 17 - Pensacola 	
Type of Training:	Select Type... <input type="text"/> <ul style="list-style-type: none"> Select Type... CM-ECF HelpCenter Other 	<p><i>Pre-registration is required. All times are TBA.</i></p>	

"From the Bench" continued

Bankruptcy Code such as paying quarterly U.S. Trustee fees, filing monthly reports, filing tax returns and paying withholding taxes, and not using cash collateral without authorization. If a motion to dismiss is filed based on any of these failures, or any other factors set forth in Section 1112(b), the debtor is saddled with a fairly heavy burden of proof to avoid dismissal or conversion of the case. One of the goals of BAPCPA with respect to chapter 11 cases was to speed up the reorganization process by pushing cases to earlier reorganization or weeding out those without a legitimate chance of reorganizing. It is important that you, as debtor's counsel, stay on top of the myriad of requirements imposed under BAPCPA so that your client will have the best chance of a successful reorganization. 



BAR ASSOCIATION NEWS

BY JASON EGAN, PRESIDENT



The Northern District of Florida Bankruptcy Bar Association is a Florida, not for profit corporation, whose members consist of bankruptcy attorneys, paralegals, and other professionals interested in the bankruptcy law and practice. The association holds an annual seminar on bankruptcy law and practice tailored to professionals practicing in the Northern District of Florida. It is anticipated that the seminar will be approved for 7.0 continuing legal education hours, including one hour of ethics.

Annual membership dues for the association are \$185.00 for members who wish to attend the annual seminar. Dues for members who will not attend the seminar are \$35.00. The 2008 seminar will be held at the Hilton Sandestin Beach Resort and Conference Center in Sandestin on Friday, September 19, 2008. A cocktail reception will be held at the hotel on Thursday, September 18, 2008. The board has reserved a block of rooms for attendees at the hotel for guests at a rate of \$169.00 per night. Registration information and other additional information about the conference will be provided to members at a later date.

In the meantime, if you have any questions regarding the Bar Association or the annual seminar, please feel free to contact any of the board members identified below.

President:

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110 E. Park Ave., Ste. 128
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Past President & Board Member:

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Gainesville area cases (352) 372-5222

THE CLERK'S CORNER

By: Bill Blevins, Clerk of Court



REVISED ADMINISTRATIVE PROCEDURES EFFECTIVE APRIL 1

In working with our Attorney Board of Advisors and Judge Killian, revisions have been made to the ECF Administrative Procedures that will become effective April 1, 2008. A summary of the changes and a marked up version of the amended procedures can be found on the main page of our website until 3/31 when it will move to the "Court Info" tab on 4/1 .

The major changes/updates being implemented are:

- the requirement to provide a working email address on pleadings so that parties can communicate in a timely manner on case related issues
- clarification of what is required when filing on-line for a signature to be valid
- the request for pertinent hearing related items be filed by at least the close of business the day before the hearing
- centralization of information regarding the court's retention policy
- guidance for when the user needs to take additional steps to correct a filing error
- further instructions on the current Judicial Conference approved privacy protection related provisions

Once effective, we believe these revisions will assist the bar in being able to work more effectively with each other to resolve issues and keep cases moving forward in proper fashion.

NETSCAPE NAVIGATOR NO LONGER SUPPORTED

Time Warner's AOL ended the development and technical support of their Netscape Navigator browser on March 1, 2008. To avoid potential security risks, it is recommended that all CM/ECF users switch to a current version of Internet Explorer (IE) or Firefox, both of which are available for free download from the respective vendor's website. We have been advised that the CM/ECF application will no longer be tested with, or support Netscape Navigator.

HELP DESK HINTS...

Remember to file amended schedules in accordance with Local Rule 1009-1. When filing amended schedules, please be sure to include the declaration page with signatures to avoid receiving a Submission Error Notification.

NEW INFORMATION REQUIRED FOR CHANGES OF ADDRESS

In an effort to reduce the number of unclaimed funds payments the trustees send to the Clerk's Office each month, the "Change of Address" event in CM/ECF has been updated to require more information in order to notify the trustee of a change of payment address for proofs of claim. Filers are now prompted to indicate whether the address change is for the debtor(s) or a creditor. Upon selecting the creditor option, you will be further prompted to indicate if the change is for noticing purposes only, payment address only, or both.

U.S. Bankruptcy Court

Northern District
of Florida



Lewis M. Killian, Jr.
Chief Judge

William W. Blevins
Clerk of Court

THE ALL NEW ECF USER MANUAL HAS ARRIVED!



The new manual is bigger and better than ever and has new features including:

- Filing Instructions
- Filing Checklists
- Redaction Requirements
- Document Retention Requirements
- Avoiding and Correcting Errors
- Descriptions of Available Reports
- A List of FLNB Resources



Access the new **ECF USER MANUAL** by clicking on the **For Our Attys.** tab at www.flnb.uscourts.gov



IN THE SPOTLIGHT



WELCOME CLAIRE!



Claire Bikowitz joined us on February 18, 2008 as a Case Administrator in the Tallahassee office. Prior to moving to Florida, Claire was with the Bankruptcy Court in New York for 11 years. She has a BA in Music Education from the College of St. Rose, Albany, NY and post-graduate classes in education and the arts. She is certified to teach kindergarten through 12th grade, had her own music studio where she taught voice, piano and guitar lessons and she also taught in private schools in Albany, NY. Claire also spent 27 years as a Church Liturgist in Valatie, NY (pronounced Va-lay-sha ["upstate NY, not the city!"]) and stated that Tallahassee seems a lot like the Valatie / Kinderhook / Albany, NY area... "just good people." We hope you'll join us in welcoming Claire to the NDFL Bankruptcy family!

DOMESTIC SUPPORT OBLIGATIONS - WHEN & WHAT TO FILE

Pursuant to Local Rule 3015-1 and 4004-1(b), all Chapter 13 debtors are required to file with the court, and serve on the Chapter 13 Trustee, a certification that all amounts to be paid under a domestic support obligation (DSO) having first become payable after the date of the filing of the Chapter 13 petition, are current or that the debtor is not required to pay such an obligation. [Local Form 13](#) has been created for this purpose and is available on our website.

This certification must be filed before the plan can be confirmed and after the completion of the confirmed plan, before a discharge can be entered.

Failure to remain current on support claims is grounds for conversion or dismissal of a case. Failure to file the required certification may result in delay of the confirmation of the plan or the debtor's case being closed without the entry of a discharge.

THANK YOU FOR YOUR INPUT

On January 21, 2008, court users in the Northern District of Florida, including attorneys, creditors, paralegals and trustees, were invited to participate in a court user survey. The survey was sent to 1000 registered users of the CM/ECF system and was designed to measure your satisfaction with case management, the ECF system, availability of information and the level of service provided by the Clerk's Office staff. Responses were accepted through February 8.

Ninety-six users responded to the survey and provided valuable feedback on the scope, quality, efficiency and effectiveness of the Clerk's Office staff. The results also included information about how ECF is used by law firms throughout the district. Some of the key findings include:

- Overall job performance of the Clerk's Office was rated as 8.88 on a scale of 1-10;
- Respondents indicated they receive most of their information about changes in fees, procedures, forms, etc. from court emails;
- About 22% of all pleadings are entered into the CM/ECF system by attorneys while the majority of entries are made by paralegals, legal assistants or legal secretaries;
- About 21% of respondents believe there are too many events which makes it difficult to locate the event they are seeking.

These responses will help the Clerk's Office to identify priority areas for improvement and will also be used to make decisions on training needs as well as allocation of resources.

We thank you for taking the time to respond to the survey and providing us with your valuable feedback.

FLNB RESOURCES

Rev. 1/07

Tallahassee and Gainesville Divisions (Tallahassee).....850-521-5001
 Proposed Orders.....TLH_orders@flnb.uscourts.gov

Cases Ending In:

- 00-20 Lisa Davis - Lisa_Davis@flnb.uscourts.gov (850-521-5022)
- 21-60 Latonia Isom - Latonia_Isom@flnb.uscourts.gov (850-521-5012)
- 61-99 Debra Cook - Debra_A_Cook@flnb.uscourts.gov (850-521-5002)

Pensacola and Panama City Divisions (Pensacola)..... 850-435-8475
 Proposed Orders.....PNS_orders@flnb.uscourts.gov

Cases Ending In:

- 00-30 Marsha Mirra - Marsha_Mirra@flnb.uscourts.gov (850-435-8478)
- 31-65 Ann Kennington - Ann_Kennington@flnb.uscourts.gov (850-435-8480)
- 66-99 Monica Broussard - Monica_Broussard@flnb.uscourts.gov (850-435-8432)

The Clerk's Office phones are answered from 9:00 a.m. until 4:00 p.m., local time, Monday through Friday, except federal holidays. Please feel free to call or email the Case Administrators with your questions.

HELP DESK:
CMECF_helpdesk@flnb.uscourts.gov
888-765-1752

New Case Filings by Month 2006—2008

