



THE BANKRUPTCY ADVISOR



Volume 10, Issue 3

A Periodic Publication of the U.S. Bankruptcy Court for the Northern District of Florida

September 2012

In this issue...	
Thanks from the Heart <i>by Lewis M. Killian, Jr.</i>	2
Proposed Rules Amendments Published for Public Comment	2
FLNB Holiday Closings	2
Judge Assignment in Gainesville Cases	2
The Clerk's Corner <i>by William Blevins, Clerk of Court</i>	3
Paralegal/Legal Assistant Seminar to be Held	4
ECF Essentials: Viewing Your Email (NEF) Activity	4
Honoring Lewis M. Killian, Jr.	5
Northern District of Florida Bankruptcy Bar Association's 2012 Annual Seminar	6
FLNB Attorney Board of Advisors: 11th Circuit Allows Lien-Stripping in Ch 7 <i>by Kathryn Hathaway</i>	7
Processing of Returned Mail by the BNC	7
Changes to Regularly Scheduled Court & Telephonic (Stay) Hearings IMPORTANT INFORMATION	8
Views & News from the Bench <i>by Judge Karen K. Specie</i>	9
Filing Claims without Logging into ECF	10
Help Desk Hints: New Proposed Order Guidelines IMPORTANT INFORMATION	10
FLNB Resources	11
New Case Filings by Month	11

Karen K. Specie Appointed Bankruptcy Judge for the Northern District of Florida

Karen K. Specie was selected by the United States Court of Appeals for the Eleventh Circuit as successor to Judge Lewis M. Killian, Jr., who retired on July 24, 2012.*

Judge Specie earned her bachelor's degree in political science at the University of South Florida and law degree at the Florida State University College of Law. She previously served in the Northern District as a chapter 7 panel trustee and was in private practice in Gainesville and Jacksonville. Judge Specie is a Fellow in the American College of Bankruptcy.

**Judge Killian served on "temporary recall" for the month of August to assist with the transition.*

SAVE THE DATE!!

Monday, December 10, 2012

2:00 p.m. EST

U.S. Bankruptcy Courthouse, Tallahassee, FL

Mark your calendars ...

WHAT: Investiture Ceremony
for U.S. Bankruptcy Judge Karen Specie

WHEN: Monday, December 10, 2012 at 2:00 p.m.

WHERE: U.S. Bankruptcy Courthouse, 110 E. Park Avenue,
Tallahassee, FL.

*Formal invitations will go out at a later date
once details are finalized.*

Thanks from the Heart

I want to take this opportunity to express my heartfelt thanks to all of the attorneys and law firms who contributed so generously to my retirement gift of a vacation at Kiawah Island. It was truly an honor to serve the people of this district for the past 25+ years. I am completely humbled by the outpouring of generosity and kind words that I have received from those who have appeared in front of me over the years. Many of you are my good friends while some I have rarely ever seen. Nevertheless, it has been all of you who have made this job one of the best there is. You will always be in my memories. Thank you for everything.

Lewis M. Killian, Jr.
Retired Bankruptcy Judge

Proposed Rules Amendments Published for Public Comment

The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Criminal, and Evidence Rules have proposed amendments to their respective rules and forms, and requested that the proposals be circulated to the bench, bar, and public for comment. The proposed amendments, Committee reports, and other information are posted on the Judiciary's website [here](#).

The comment period ends February 15, 2013.



Judge Assignment in Gainesville Cases

As you may have noticed, we are assigning some of the Gainesville Division cases to Chief Judge Karen S. Jennemann of the U.S. Bankruptcy Court for the Middle District of Florida due to potential conflicts of interest for Judge Specie.

The judge to whom a case is assigned is noted in the upper left corner of the docket as well as by the initials at the end of the case number:

- KKS - Karen K. Specie (Northern District of Florida)
- KSJ - Karen S. Jennemann (Middle District of Florida)
- MAM - Margaret A. Mahoney (Southern District of Alabama)
- WSS - William S. Shulman (Southern District of Alabama)

Please note that the Local Rules for the U.S. Bankruptcy Court for the Northern District of Florida are still applicable to all cases assigned to judges in other districts.

Questions regarding cases assigned to Judge Jennemann should be directed to Lexie Lewis (MDFL) at (407) 648-6365 x6211 or Lexie_Lewis@flmb.uscourts.gov.

THE CLERK'S CORNER

By: Bill Blevins, Clerk of Court



2012 Transformations

At the beginning of each year, the clerk's office decides upon a theme that best describes the main challenges we expect to encounter over the next twelve months along with the resulting steps that will be needed to overcome them. The theme selected for this year was "Transforming in 2012" as we were aware from the start of several substantive changes scheduled to occur during the year. Little did we realize when choosing this theme that other unplanned changes would be in store that would be transformational as well.

On the known side was the largest transformation that this court has seen in a while: the retirement of Judge Killian after 25+ years and the beginning of Judge Specie's career on the bench of the Northern District in late July. While specific pre-planned dates and times were in place regarding these actions, a lot of advance organizational planning, communication, and collaboration was required in order to make them happen. Because of the superb efforts provided all around, the result was a very smooth and seamless start to this important transformation for our court. My thanks and hearty appreciation go to all who participated in making this happen, with special thanks to the bar association and the bench and bar fund for their financial support of the retirement events, and to the assisting judges of Alabama Southern and Florida Middle.

On the less known side was the future path and direction of bankruptcy filings around the nation and the interesting twist within our court. As noted in the August 3 publication on the U.S. Courts website (<http://news.uscourts.gov/bankruptcy-filings-continue-decline>), bankruptcy filings across the country fell 14% for the 12 month period ending June 30, 2012. The related 2012 twist for us though is the rise in our rate of Chapter 11 filings which has almost doubled over the past 12 months, from about thirty cases to over sixty cases. This dramatic growth has resulted in increased hearings and applicable actions required to handle these more complex cases. We will see if this filing trend continues into 2013 along with the added possibility of growth due to re-filers from 2005.

One other area that has had an extreme impact on the clerk's office in 2012 is the significant funding reductions being implemented at the federal level and directed at bankruptcy courts in particular. The result for our court is the loss of approximately \$300,000 or about a 20% drop in our overall budget. This lower funding level has required the court to reduce its staffing with lay-offs for the first time during my tenure here. While the unplanned loss of seasoned and trained staff is extremely difficult for our small court, we are working very hard to make the necessary transformations to assure that remaining service levels continue to align with expectations and required statutory duties are fulfilled. The concern is that we are pretty close to "bare bones" going forward and any spike in filings could result in processing delays and additional service reductions.

For good or for bad, our "Transforming in 2012" theme still looks to be right on target. We look forward to working with you as our transformation continues and we strive to make the most of all available resources to hit the mark of a successful transformation in preparation for what 2013 has in store for us.

Paralegal/Legal Assistant Seminars to be Held in September

The Clerk’s Office is pleased to be hosting two paralegal/legal assistant seminars this year:

<p>Pensacola (live) and Panama City (video) Wednesday, September 19, 2012 1:00 p.m. - 5:00 p.m. CST <i>Registration Deadline: September 12</i></p>	<p>Tallahassee (live) and Gainesville (video) Thursday, September 27, 2012 9:00 a.m. - 1:00 p.m. EST <i>Registration Deadline: September 20</i></p>
--	---

Please note that these dates and times are different than the dates in our original announcement.

The half-day seminars will include presentations by Clerk’s Office staff and the panel trustees:

- ◆ Individual presentations by the chapter 7 and 13 trustees
- ◆ Q & A with the trustees
- ◆ Proper Service
- ◆ Preparing the Petition to Avoid Submission Errors
- ◆ The Nuts & Bolts of the Clerk’s Office
- ◆ Amending Documents
- ◆ A Look Ahead at CM/ECF Version 5, 5.1 and NextGen

Registration is now open on our [website](#). There is no charge for attendance, and attorneys are welcome as well. We hope to see you there!

The seminars will be held in the federal or bankruptcy courthouse at each location. You will receive an email one week prior to the seminar date with location and parking information.

ECF Essentials

If you are unsure as to whether or not you’ve received all of your Notices of Electronic Filing (NEFs) from CM/ECF, a quick way to check is through the **Email Summary** option in the Reports menu.

Reports > Email Summary > Enter the date and click “Run Report”

You may select to view “Summary Text” or “Full Text” and both options include hyperlinks to view the docket (case number) and the PDF document (docket number).

Summary of ECF Activity

Activity Date

- Summary Text
- Full Text

Activity has occurred in the following cases:

[12-40010-LMK](#) Lemuel Amos Turner [42](#) Notice of Hearing - Status Hearing

Summary Text

Activity has occurred in the following cases:

[12-40010-LMK](#) Lemuel Amos Turner [42](#) Notice of Status Hearing (Re: [38](#) Motion for Relief from Stay.) Status hearing to be held on 9/13/2012 at 11:00 AM at via CourtCall. (McClure, M.)

Full Text

Honoring Lewis M. Killian, Jr.

On Wednesday, July 24, 2012, the Honorable Lewis M. Killian, Jr., Bankruptcy Judge for the Northern District of Florida celebrated his 65th birthday. We, however, celebrated his more than 25 years of dedicated service to the people in the Northern District of Florida with a ceremony and reception honoring him upon his official retirement from the bench. It was a packed courtroom as many friends, family members, and colleagues attended. Speakers included the Honorable M. Casey Rodgers, Chief Judge, United States District Court, Northern District of Florida, Samuel J. Zusmann, Jr., Esq., Holland & Knight, LLP, Joseph W. Hatchett, Esq., Former Chief Judge, United States Court of Appeals, 11th Circuit, Judge William H. Stafford, Jr., Senior U. S. District Court Judge, Northern District of Florida, Kimberly Killian Law, Esq., Holland & Knight, LLP, and William J. Miller, Jr., Esq., President, Northern District of Florida Bankruptcy Bar Association. Mr. Miller presented a portrait commissioned by the Bankruptcy Bar Association. At the reception following the ceremony, Judge Killian was presented with a statue of an eagle by Pamela Marsh, U.S. Attorney for the Northern District of Florida. The reception was sponsored by the Bench and Bar Fund and the ladies of the Tallahassee Clerk's Office.

Good luck and good golfing, Judge! We will miss you.



NORTHERN DISTRICT OF FLORIDA BANKRUPTCY BAR ASSOCIATION**2012 Annual Seminar Information****September 27-28, 2012**

(not an FSU home football game weekend)

Registration Fee: \$200**(NO INCREASE FROM 2010 & 2011!)**

(includes annual membership dues, cocktail reception on Thursday night at the Sandestin Hilton

Deck, and breakfast/lunch & beverages during the seminar Friday)

**HILTON
SANDESTIN BEACH
GOLF RESORT & SPA**4000 Sandestin Blvd., South
Destin, FL 32550
1-800-559-1805 (Toll-Free)Seminar Room Rate: \$194 per night
(hotel reservations made separately;
use reservation code "BLS")**GOLF TOURNAMENT & COCKTAIL RECEPTION – THURSDAY, SEPTEMBER 27TH**

The Annual NDFLBBA Golf Tournament will be Thursday afternoon, September 27th. Reservations are required. Location to be determined. Please contact Ed Rude at 850-222-2311 for more information.

The Annual Cocktail Reception will be Thursday night, September 27th, at 6:00 p.m. at the Hilton Sandestin Beach Golf Resort & Spa. If you or your firm would like to sponsor the reception, please contact Brian Rich at BRich@bergersingerman.com.

BRONZE - \$150**SILVER - \$250****GOLD - \$350****PLATINUM - \$500****SEMINAR & MEMBERSHIP MEETING – FRIDAY, SEPTEMBER 28TH**

8:00 am	Continental Breakfast & Late Registration Outside Grand Ballroom	12:00 pm	Lunch Break & Annual Membership Meeting William J. Miller, Jr.
8:45 am	Welcome William J. Miller, Jr.	1:00 pm	Tax Issues Related to Bankruptcy Ronald Mason
9:00 am	Clerk's Office Update William Blevins, Clerk of FLNB	1:50 pm	Fair Debt Collection Practices Act Robert Murphy
9:30 am	Case Law Update & Title Standards for Bankruptcy Jeffrey R. Dollinger, Esq.	2:40 pm	Coffee Break
10:20 am	Coffee Break	3:00 pm	Exemptions Update John I. Venn, Jr., Esq.
10:30 am	View from the Chapter 7 Trustees	3:30 pm	U.S. Trustee's Office Update Charles Edwards, Esq.
11:00 am	Ethics & Professionalism Leyza F. Blanco, Esq.	4:00 pm	View from the Bench Hon. Karen K. Specie
		4:45 pm	Closing Remarks Brian Rich, Esq.

Presentations will be made by Judge Specie and Bill Blevins from the Clerk's Office. To register or to request more information, please visit the Northern District of Florida Bankruptcy Bar Association's website.

<http://www.ndflbankruptcybarassociation.com>

FLNB Attorney Board of Advisors

11th Circuit Allows Lien-Stripping in Chapter 7

By Kathryn Hathaway

Board Certified in Consumer Bankruptcy by
the American Board of Certification, Tallahassee, Florida
Kathryn@hathawaylaw.net

Where a junior mortgage is wholly unsecured, a Debtor can strip the mortgage lien in Chapter 7. *In re McNeal*, 2012 WL 1649853 (11th Cir. May 11, 2012). The Eleventh Circuit determined that the U.S. Supreme Court's decision in *Dewsnup v. Tims*, 502 U.S. 410, 112 S. Ct. 773 (1992) which held that a *partially* secured second lien could not be stripped in a Chapter 7 was not the controlling case in this Circuit. Instead, the Court referred to its prior decision *Folendore v. United States Small Business Administration*, 862 F.2d 1537 (11th Cir. 1989) as the controlling case in which the 11th Circuit ruled that an allowed claim that was wholly unsecured was voidable under the plain language of 11 U.S.C. § 506(d).

The Court noted that several courts, even in our own Circuit, had treated *Dewsnup v. Tims* as having abrogated the Court's decision in *Folendore*. However, the court noted that though the reasoning in *Dewsnup v. Tims* would seem to have overruled *Folendore*, it is the actual ruling on the issues before the Court that counts. Quoting the Supreme Court in *Atlanta Holding Co.*, 496 F.2d 1284, the Court said, "As we have stated, '[o]bedience to a Supreme Court decision is one thing, extrapolating from its implications a holding on an issue that was not before that Court in order to upend settled circuit law is another thing."

Under Bankruptcy Rule 7001(2), this matter would be handled in an adversary proceeding, as it appears to have been in *McNeal*.

I have been honored to serve on the Northern District Bankruptcy Court Advisory Board for the past year and a half. Our Clerk, Bill Blevins, and our new Deputy Clerk Traci Abrams are dedicated to making our Clerk's office responsive to the "users" and to solving problems before they occur. I've enjoyed working with them as they anticipate challenges and surf on the shifting currents of budget, need and service to our users. We are truly blessed to have such fine professionals serving the Northern District.

The next FLNB Board of Advisors meeting will be held on Wednesday, October 10, 2012.

Please contact any member if you wish to provide an agenda topic. A [membership list](#) and [Topic Request form](#) are available on the court's website under the Court Resources tab.

Processing of Returned Mail by the Bankruptcy Noticing Center (BNC)

Effective October 15, 2012, the BNC will begin processing and disposing of court-generated notices that would otherwise be returned to the bankruptcy courts by the U.S. Postal Service (e.g., 341 Meeting Notices) in an effort to reduce national postage expenditures. Currently, the Clerk's Office docketed an entry noting the receipt of these returned mail items. With this new process, the debtor's attorney will receive notification of the returned mail in a similar manner as you are currently notified of "undeliverable" mail (i.e., those with incomplete addresses). Upon receipt of these notifications, please provide the Court with a correct mailing address for the recipient as soon as possible.

**The BNC is the centralized mail processing center for sending documents from the U.S. Bankruptcy Courts only and does not provide service of items docketed by the attorneys, trustees, or other case participants.*

Changes to Regularly Scheduled Court & Telephonic (Stay) Hearings

Beginning in September, courtroom hearings in the Pensacola and Panama City divisions will be moved to Wednesday and Thursday respectively, from their prior Thursday and Friday schedule. In addition, all telephonic stay hearings will be moved to Tuesday afternoons. There are no changes to the regular video-conferencing or Tallahassee and Gainesville court schedules.

Please make note of the remaining 2012 court dates (bold, italicized dates are the new dates) along with some minor adjustments due to holidays and/or conflicts:

September:

Gainesville: Thursday, September 6

Tallahassee: Thursday, September 13

Pensacola: *Wednesday, September 19*

Panama City: *Thursday, September 20*

Telephonic Hearings on Motions for Relief from Stay: *Wednesday, September 5, and Tuesday, September 18, and 25*

October:

Gainesville: Thursday, October 4

Tallahassee: Thursday, October 11

Pensacola: *Wednesday, October 24*

Panama City: *Thursday, October 25*

Telephonic Hearings on Motions for Relief from Stay: *Tuesday, 2, 9, 23, and 30*

November:

Gainesville: Thursday, November 1

Tallahassee: *Thursday, November 15*

Pensacola: *Wednesday, November 28*

Panama City: *Thursday, November 29*

Telephonic Hearings on Motions for Relief from Stay: *Tuesday, November 6, 13, 20, and 27*

December:

Gainesville: Thursday, December 6

Tallahassee: Thursday, December 13

Pensacola: *Wednesday, December 19*

Panama City: *Thursday, December 20*

Telephonic Hearings on Motions for Relief from Stay: *Tuesday, December 4, 11, and 18*



Views & News from the Bench

By: Karen K. Specie
United States Bankruptcy Judge
Northern District of Florida

I am honored to have been selected to take over Judge Killian's role as the "Chief" Bankruptcy Judge here in the Northern District of Florida where, as many (if not most) of you know, I have practiced for most of my legal career. I am very fortunate to be taking over in a district that Judge Killian has run and managed so well for such a long time; his practices and procedures, as well as his and the Clerk's staff, have made my life a lot easier in recent weeks.

Other than some slight calendaring changes, my goal has been to leave many things the same for the time being while I learn my new job. I will begin reviewing procedures, forms and calendaring issues soon, so you can expect to see some changes during the next few months, partly in order to address significant budget issues coming during fiscal year 2013 and beyond. We will make every effort to give the bar notice in advance of any significant changes.

Bankruptcy Courts throughout the nation, ours included, are facing some very tough economic times for the foreseeable future. Changes in budgeting have already caused the Northern District of Florida Bankruptcy Clerk's office to lose four full-time positions, while at the same time the case load is not decreasing proportionally. With fewer staff to handle more work, we anticipate that certain changes may be needed simply to address ways in which to handle cases as expeditiously as in the past while maintaining the outstanding service to the bar and the public that our Court has always maintained.

Some of the small things that attorneys and their staff can do to help the Court manage cases most efficiently and continue the level of service to which you have become accustomed include:

- Read proposed Orders carefully to be sure they grant the relief requested in the motions they relate to and do not contain typos.
- Put Docket numbers for pleadings to which Orders relate in the title of the Orders.
- Be familiar with, and have your staff familiar with, the Local Rules. For example, a request for emergency relief, L.R. 9073-1 B.(3) requires a Statement of Need for Emergency Hearing.
- Ensure that each pleading shows to whom it was served, and when.
- Submit proposed orders in Microsoft WORD or WordPerfect format.

I am looking forward to the years ahead, and in seeing everyone throughout the District. I also extend another sincere "Thank You" to Judge Killian for his many outstanding years serving as our "Chief," and for his support and assistance during my transition to the bench. May his "retirement" years be blessed with travel, grandchildren, golf and FSU football!

Please see related articles regarding Judge Specie's changes to [hearing dates \(Page 8\)](#) and requirements for [proposed orders \(Page 10\)](#).



Claims without Logging into CM/ECF

We are in the final stages of implementing a new process through which anyone will be able to electronically file a claim without having to login to CM/ECF or even be required to have a CM/ECF login and password. The new process is very similar to the program used in both the Middle and Southern Districts of Florida and can only be used to file claims for creditors who are currently listed in the case (i.e., you will be unable to add a creditor). This new program should be available on our website the first part of September.

Please remember that entities who file 20 or more claims per year are required to file electronically.

HELP DESK HINTS... Proposed Orders

Please make note of the following new proposed order guidelines:



- ◆ **TITLE:** The title of the proposed order should contain the disposition of the motion, contain the name of the movant and the docket number of the motion, and should completely match the title of the related motion
 - ⇒ Order Granting ABC Bank's Motion for Relief from Stay (Doc. 51)
 - ⇒ Order Approving Trustee's Application for Compensation (Doc. 123)
 - ⇒ Orders "on" a motion/application/objection will not be accepted; they must include the disposition
- ◆ **DISPOSITION:** The correct disposition terminology should be used
 - ⇒ Motions are granted or denied
e.g., Order Granting or Order Denying Motion ...
 - ⇒ Objections are sustained or overruled
e.g., Order Sustaining or Order Overruling Objection ...
 - ⇒ Applications are approved or disapproved
e.g., Order Approving or Order Disapproving Application ...
 - ⇒ Non-dispositional language such as "Order on Motion" will not be accepted
- ◆ **BODY:** The opening paragraph of the proposed order should contain the document number of the motion or document to which the order is related
 - ⇒ *"This case came before the Court on Creditor ABC Bank's Motion to Dismiss Case (Doc. 57)..."*
- ◆ **AMENDED ORDERS:** Amended orders must contain a footnote explaining why the original order is being amended.
- ◆ **REFERENCED DOCUMENTS:** Proposed orders which contain references to Proofs of Claim or items on the docket such as responses, amendments, etc., should contain the name(s) and docket or claim number(s) of those items as shown in the examples above
- ◆ **OBJECTIONS TO CLAIMS:** Orders sustaining objections to claim should include the claimant's address upon which notice was served and should clearly indicate the amount of the claim to be disallowed. Do not simply state "claim is disallowed in its entirety."
- ◆ **ELECTRONIC FORMAT:** As always, proposed orders should be submitted in Word (preferably), WordPerfect, or other compatible format.

FLNB Resources

Rev. 09/12

Cases in the Northern District of Florida are randomly assigned to Case Administrators throughout the district shortly after filing. The name of the Case Administrator to whom a particular case is assigned is located at the top of the docket report in CM/ECF. Contact information for each Case Administrator is as follows:

Ann Kennington	Ann_Kennington@flnb.uscourts.gov	(850) 470-3060
Carolyn Romine	Carolyn_Romine@flnb.uscourts.gov	(850) 470-3062
Claire Bikowitz	Claire_Bikowitz@flnb.uscourts.gov	(850) 521-5016
Latonia Isom	Latonia_Isom@flnb.uscourts.gov	(850) 521-5012
Lisa Davis	Lisa_Davis@flnb.uscourts.gov	(850) 521-5010
Monica Broussard	Monica_Broussard@flnb.uscourts.gov	(850) 470-3061
Lexie Lewis	Lexie_Lewis@flmb.uscourts.gov <i>(for cases assigned to Judge Jennemann [FLMB] only)</i>	(407) 648-6365 x6211

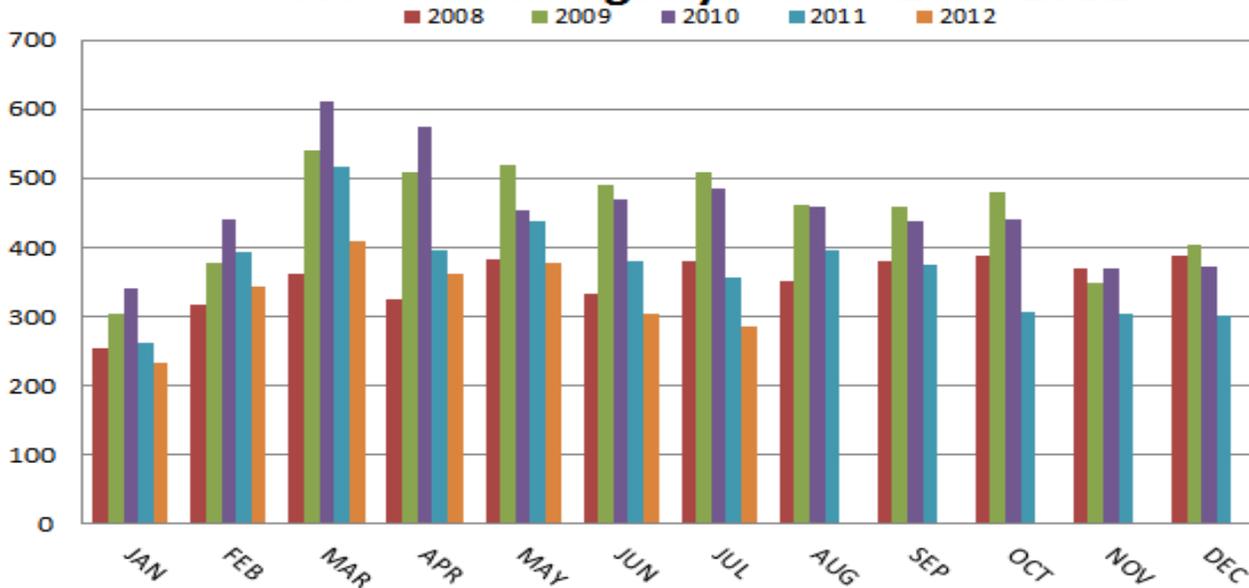
Help Desk - Debra Cook
CMECF_Helpdesk@flnb.uscourts.gov
 850-521-5002 or 888-765-1752

CM/ECF Login or Password - Ne'Shoni Foulks
NeShoni_Foulks@flnb.uscourts.gov
 850-521-5011 or 866-639-4615

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

Please visit us on the web at www.flnb.uscourts.gov

New Case Filings by Month 2008-2012



Beginning September, 2012, a link to the monthly filing and closing statistics for the U.S. Bankruptcy Court for the Northern District of Florida will be posted to the [Court Resources](#) page of our website at www.flnb.uscourts.gov. Statistical information will be available by the 15th of each month.