



THE BANKRUPTCY ADVISOR



Volume 11, Issue 3

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

September 2013



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Orders on “Last Minute” Continuance or Cancellation of Hearings

By Courtney McCormick, Law Clerk to Judge Karen K. Specie

Parties wishing to have hearings continued or canceled need to submit their proposed orders at least by **midnight, two days** before the hearing. Orders submitted later will likely not be signed.

It has become increasingly difficult to make last minute changes to the Court’s calendar in part due to the Court’s active travel schedule. Many times, the Clerk’s office receives proposed orders late the day before, and sometimes on the day of, scheduled hearings, at times after Court has already started.

If appropriate, parties may still file electronic requests for hearing cancellations to notify the Court that the hearing should be removed from the docket. If there is no hearing cancellation request or signed order, at least one lawyer/party must appear at the scheduled hearing to advise the Court of a request or stipulation for a continuance or cancelation.

Hearings in Chapter 11 cases are noticed to all creditors and parties in interest and motions for last minute continuances in those cases will likely be denied.

For evidentiary hearings, especially those scheduled for large blocks of time, please contact the Court as soon as possible if the matter is settled or the parties are seeking a continuance.



Bankruptcy Court Mailing Address

All mail to the U.S. Bankruptcy Court for the Northern District of Florida should be sent to the **Clerk of Court, U.S. Bankruptcy Court, 110 E. Park Ave., Ste. 100, Tallahassee, FL 32301.**

Please ensure that your negative notice legend directs respondents to file their objections at this address and not the divisional location to which a case is assigned.

Mail received at a divisional office is forwarded, unopened, to the Tallahassee office for processing.

HELP DESK HINTS... RSS Feed of Court Website

Our website allows the use of RSS (*Really Simple Syndication*) technology to notify you quickly of updates to our website. This is especially useful for those updates that are hearing or procedure related. Recently we posted an announcement regarding hearings to be held the following week in the Pensacola and Panama City divisions for which Judge Specie allowed participants to appear by video in the divisional location or in person in Tallahassee where she was presiding.



Early next year Judge Specie will begin scheduling regular video conference hearings in the Gainesville, Panama City, and Pensacola divisions; however, until such time, the RSS feed will allow us to provide notification of these types of extemporaneous scheduling changes. Subscribe by clicking the icon in the upper right corner of our homepage at www.flnb.uscourts.gov.



Service of Process

By Courtney McCormick, Law Clerk to Judge Karen K. Specie

The Court is closely scrutinizing service of process in all motions, specifically where Bankruptcy Rule 7004 is applicable. Pursuant to Bankruptcy Rule 9014, a motion that is considered a contested matter should be served in the manner provided for service of a summons and complaint by Rule 7004. Fed. R. Bankr. P. 9014. The Court's Local Rules specifically provide that Motions to Avoid Liens, Motions to Strip Liens and Motions to Value are considered contested matters that should be served in accordance with Rule 7004. See N.D. Fla. LBR 3012-1(B); 3012-2(A)(2)(d); and 4003-1(B).

When serving a corporation under Bankruptcy Rule 7004, first class mail is required on the corporation's officer, managing agent, general agent, or other agent authorized by appointment or by law to receive service. Fed. R. Bankr. P. 7004(b)(3). The rules are different, however, as to governmental organizations and banks.

For governmental organizations, service is proper by first class mail on the person or office upon whom process is prescribed to be served by the law of the state or in the absence of the designation of any such person or office by state law, then to the CEO of the governmental organization. FED. R. BANKR. P. 7004(b)(6).

Parties seem most often to fail to properly serve an "insured depository institution." Under Bankruptcy Rule 7004(h), service must be by certified mail on an officer of the institution. The only exceptions are when the institution has appeared *in the case* by its attorney (then service is proper by first class mail to the attorney), the Court orders otherwise, or the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service. FED. R. BANKR. P. 7004(h).

The Court is now denying, without prejudice, motions on which service of process is insufficient, or on which the Court cannot readily ascertain whether service of process was proper, under Rule 7004.



Proposed Order Upload Issues

The link to Submit a Proposed Order in CM/ECF will open a pop-up window through which the proposed order is to be submitted to the Court. Please check your settings to confirm that you will allow pop-ups before attempting to submit a proposed order. If you have multiple toolbars installed (e.g., IE, Ask, Google, Yahoo, etc.), you must ensure each one will allow pop-up windows.

Pending Changes to Bankruptcy Forms Effective December 1

Amendments to Official Bankruptcy Forms 3A (**Application for Individuals to Pay the Filing Fee in Installments**), 3B (**Application to Have the Chapter 7 Filing Fee Waived**), 6I (**Schedule I: Your Income**), 6J (**Schedule J: Your Expenses**), 6 Summary (**Summary of Schedules**), 23 (**Debtor's Certification of Completion of Instructional Course Concerning Financial Management**) and 27 (**Reaffirmation Agreement Cover Sheet**), will take effect on December 1, 2013, if approved by the Judicial Conference at its meeting in September 2013.

Official Forms 3A, 3B, 6I, and 6J, which are only used in individual debtor cases, are revised as part of the Bankruptcy Rules Advisory Committee's ongoing Forms Modernization Project ("FMP"). Early in its evaluation of the existing bankruptcy forms, the FMP concluded that case opening forms for individuals should be separated from those used by entities. Forms used by individuals are designed to be more easily understood by users who are unfamiliar with bankruptcy and who are often not represented by an attorney. In addition to restyling, minor substantive changes are described in the committee notes for the four forms.

Official Forms 6 Summary and 27 are revised with updated line number cross references to Schedules I and J.

Official Form 23 is revised in connection with a change to Bankruptcy Rule 1007(b)(7) that is scheduled to go into effect on December 1, 2013. The rule change will relieve individual debtors of the obligation to file Official Form 23 if the provider of an instructional course concerning personal financial management directly notifies the court that the debtor has completed the course. Official Form 23 is revised to reflect the rule change by including an instruction stating that the debtor should complete and file the form only if the provider has not already notified the court of the debtor's completion of the course.

The three existing Directors Procedural forms for subpoenas – 254 (**Subpoena for Rule 2004 Examination**), 255 (**Subpoena in an Adversary Proceeding**), and 256 (**Subpoena in a case Under the Bankruptcy Code**) – will be withdrawn on December 1, 2013 and replaced with four updated versions (Forms 254, 255, 256, and 257) that incorporate pending changes to Civil Rule 45, which is made applicable in bankruptcy cases by Bankruptcy Rule 9016. The revised bankruptcy subpoenas more closely follow the topic organization of subpoenas in civil cases.

The proposed Rules amendments are available at <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx>

Paul Neely Appointed Chief Deputy Clerk

We are pleased to announce the appointment of Paul Neely as Chief Deputy Clerk for the U.S. Bankruptcy Court for the Northern District of Florida on July 29, 2013.

Paul's professional career began with the U.S. Navy where he rose to the rank of Lieutenant Commander. Within the navy, in private industry, and with the Department of Defense, he tackled various roles including facilities and COOP management, contracting and acquisition, IT including IT security, internal controls management, budget/finance, personnel policy development, logistics and related systems development, inventory control, and personnel management to name a few. Paul completed a Master of Business Administration, a Bachelor of Arts and an Associate of Science degree.

We are excited to have Paul in his new role in the Clerk's Office and hope you will join us in congratulating him.

Jacksonville Bankruptcy Bar Offers Professionalism Tips

By Karen Brune Mathis, Jacksonville Daily Record—June 17, 2013—Reprinted with permission

If there is one person a lawyer doesn't want to be in a U.S. Bankruptcy Court case, it would be "that guy."

"That guy" is the lawyer who doesn't prepare for courtroom appearances; doesn't show respect for the court or court administration, clients or opposing counsel; fires off antagonizing or disrespectful emails, texts and letters; overreacts in court or doesn't control the client; doesn't respond immediately to telephone calls from the court; and generally is discourteous.

"A lot of this stuff is 'don't be that guy,'" said Ellsworth Summers, president of the Jacksonville Bankruptcy Bar Association and a shareholder in the Rogers Towers firm.

Summers spoke May 15 at the JBBA Professionalism Bootcamp at the Bryan Simpson U.S. Courthouse.

He was joined on a panel discussion by U.S. Bankruptcy Court Judges Paul Glenn and Jerry Funk as well as lawyer Jerrett McConnell, a director and past president of the association and a shareholder of the Friedline & McConnell firm.

The event is held annually.

"This is a professionalism boot camp," Summers said. "We all have bad days. We all have moments of professional weakness."

He assured the 30 members who attended that the panel was there to help. "We really are a really decent Bar," he said to the group.

Glenn and Funk offered their recommendations and pet peeves.

- Show respect. "Respect each other and respect the court," Funk said. "You have limited hours on this earth," he said. If a lawyer does not respect another person's time, "you've stolen those hours."
- Be prepared. Funk said "it's unbelievably obvious" when a lawyer is not prepared. "The first thing you can tell is who's prepared," Glenn said. "It's immediately apparent to us."
- Communicate. Funk said to communicate with the U.S. Bankruptcy Court trustee, opposing counsel, the court and the clerk's office. "A lot of time it will save you a lot of grief and aggravation," he said.
- Appear at hearings. "It's not too much to ask," Funk said. "You just can't not show up."
- Analyze. "Analyze from the perspective of the judge," Glenn said. Present the facts and the law that applies and why.
- Arguments. "Make your best arguments first," Glenn said. "Address the issues directly. The nonissues are not issues," he said.

Glenn summarized his suggestions: Be candid and be professional, be reasonable, be prepared, and analyze.

Summers emphasized to the lawyers that Glenn and Funk, who are the two bankruptcy judges who sit in the U.S. Middle District of Florida Jacksonville Division, are respectful and generous with their time.

"Salute the rank," Summers said. "You always have to treat the judge with respect."

Summers and McConnell offered suggestions, first addressing correspondence between lawyers on a case.

When sending a text, email or letter, lawyers should ask themselves: "Will this appear before these two

See "JBBA Boot Camp" on Page 5

JBBA Boot Camp (continued)

guys? Will it make its way into a pleading?” Summers said, referring to the judges.

“If you have a bad day and fire something off that you shouldn’t have, these guys will see it,” he said.

Summers said to cool off before sending correspondence if it’s heated. “Set your alarm. Reread it. Is that what you really wanted to say? Or have somebody in the office read it.”

Summers and McConnell offered suggestions about correspondence and communication with opposing counsel:

- Texts. “No one should ever be texting about the law,” Summers said. “Stay away from the text.”
- Email. “Email to opposing counsel should never use an exclamation point or points or be in all caps,” McConnell said. “As a general rule, if you’re in a tough situation, never send an email,” Summers said.
- Courtesy. “In all correspondence, always be courteous. Show grace. Your courtesy could change the dynamic,” Summers said.
- Telephone calls. A lot can happen in a five-minute call and a lot more can happen in a 30-minute call. Take notes so there is a record of what was said.
- Face-to-face meetings. Take notes of who said what; recap what was said; make a to-do list of what was discussed; and send a follow-up email to make sure everyone agrees on what took place.
- Rude opposing counsel. “You show your worth, your mettle, by killing them with kindness,” Summers said.

Summers and McConnell also offered suggestions about courtroom etiquette.

McConnell suggested lawyers “learn from the mistakes of others.”

“Watch the judges. Watch how they treat other attorneys. Watch what words set them off. Watch how they rule,” he said.

- Judges. “Stand up and address the judges. Show them respect,” McConnell said. “Don’t interrupt our judges. Let them finish what they’re trying to tell you,” he said. Respond with yes sir, no sir, your honor, he said.
- Opposing counsel. If you have an issue, talk with opposing counsel before the proceeding, McConnell said. “Introduce yourself to opposing counsel. Put a face to the voice, to the email.” Also, don’t interrupt them or try to shout them down. Be candid with opposing counsel and with the court.
- Court personnel. Court administrators have a job to do. “Treat them with respect,” McConnell said.
- Communication. “When you are making arguments, speak up clearly. Be succinct,” McConnell said. “Don’t belabor your point.”
- Counsel table. “Keep your emotions to yourself. Keep yourself and your client under control. Don’t turn your back to the court,” McConnell said. And don’t swing your chair around. “Listen to your opposing counsel,” Funk added. “You could miss something relevant to an argument.”
- Witnesses. “Prepare your witnesses. Spend time with them. Make sure they understand what the case is all about, make sure they understand what to expect in the courtroom, make sure you control your client witness,” McConnell said.

Continued on Page 6

JBBA Boot Camp (continued)

- Witnesses of opposing counsel. Don't ask questions where you don't know the answer already.
- Clients. "Remember your primary duty is to your client," Funk said. McConnell said lawyers must be honest with clients and create honest expectations, not overselling a position. Make sure clients understand the process and know when they need to be in court and when they don't.
- Difficult clients. McConnell said lawyers must control their clients. "If you can't get along with that client, you may need to send him down the road," he said. "There is no client worth (losing) your reputation."

There was another suggestion that Summers emphasized: 301.

That number – 301 – is the telephone prefix of the bankruptcy court administration. Summers was direct:

"You see 301, answer the phone," he said. "Chances are they have a very specific question. Answer the phone or return (the call) as soon as you get it. Do not under any circumstance let them hang.

"How simple is it to return that call? I cannot imagine any excuse to not call back. They are trying to be helpful," Summers said.

McConnell said if the court calls about an issue, "make the correction so they don't have to call you again."

"If you treat the clerk's office with respect, you've established that rapport. It gets you a long way," he said.

"You want to be on the 'yes' list," Summers said.

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http://www.jaxdailyrecord.com/showstory.php?Story_id=539767

Change of Venue (N.D. Fla. LBR 1014-1)

Please note that Local Rule 1014-1 regarding change of venue states that "attorneys desiring to transfer a new Chapter 7 or 13 petition to another division within the district must select the division at case opening where they want the case administered and contemporaneously file a Motion to Transfer." **This rule is not applicable to Chapter 11 or 12 cases.** Case assignment in the Northern District of Florida is based upon the debtor's county of residence as provided on the petition. Cases opened under Chapter 11 or 12 must be filed in the default division, as shown below, when opening a case in CM/ECF.

Gainesville Division: Alachua, Dixie, Gilchrist, Lafayette, and Levy

Panama City Division: Bay, Calhoun, Gulf, Holmes, Jackson, and Washington

Pensacola Division: Escambia, Okaloosa, Santa Rosa, and Walton

Tallahassee Division: Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor and Wakulla

Character Use in CM/ECF

Please refrain from using quotation marks ("), apostrophes ('), or ampersands (&) when adding parties or creditors or when docketing in CM/ECF. These characters are often read by the system as syntax (computer language) and can cause system malfunctions.





Emotional Support Resources Available on Court Website

People talk openly about financial and economic problems but there is little open discussion about the toll financial hardship can take on a person's health. Financial stress is a leading cause of depression and other significant health issues, mental and physical, and the toll is often not outwardly visible. Our website offers links to national, statewide, and local community resources that may be of assistance to debtors in our area. Please visit or refer someone to our website for more information. <http://www.flnb.uscourts.gov/emotional-support>

Proposed Bankruptcy Rules Changes Effective December 1, 2013

The following amendments to the Federal Rules of Bankruptcy Procedure will take effect December 1, 2013, unless Congress enacts legislation to reject, modify, or defer them:

Rule 1007(b)(7) is revised to relieve individual debtors of the obligation to file Official Form 23, *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*, if the provider of an instructional course concerning personal financial management directly notifies the court that the debtor has completed the course.

Rule 4004(c)(1)(H) is amended to provide that the court must delay entering a discharge for a debtor who has not filed Official Form 23, only if the debtor was in fact required to do so under Rule 1007(b)(7).

Rule 5009(b) is revised to reflect the amendment of Rule 1007(b)(7). Rule 5009(b) currently requires the clerk to send a warning notice to an individual debtor who has not filed Official Form 23 within 45 days after the first date set for the meeting of creditors.

Rule 9006(d) prescribes time limits for the service of written motions and responses. The amendments to this subsection draw attention to the rule's default deadlines for the service of motions and written responses by amending the title to add a reference to the "time for motion papers." The amendments expand the coverage of subdivision (d) to address the timing of the service of any written response to a motion.

Rule 9013, which addresses the form and service of motions, is amended to provide a cross-reference to the time periods in Rule 9006(d). The amendment also calls greater attention to the default deadlines for motion practice. In addition, stylistic changes are made to Rule 9013 to add greater clarity.

Rule 9014, which addresses contested matters in bankruptcy, is similarly amended to provide a cross-reference to the times under Rule 9006(d) for serving motions and responses.

The proposed rules amendments adopted by the Supreme Court and pending Congressional review are available at <http://www.uscourts.gov/RulesAndPolicies/rules/pending-rules.aspx>.

BNC Certificate of Service Gets a Makeover

The Bankruptcy Noticing Center (BNC) has begun issuing Certificates of Notice with a new streamlined look. Previously the Certificate of Notice required review of at least two pages to determine who received notice. The new format condenses the Certificate of Notice and NEF information into a single page when possible. This change became effective September 6.

ECF Essentials

Attorney/Party Associations in CM/ECF

The last upgrade to CM/ECF brought a “fix” to the creation of attorney/party associations when filing on behalf of someone for whom the system does not recognize an active association. Prior to this upgrade, filers had to check a box to create an association between the filer and the party for whom he was filing. The new process automatically checks the box to create the attorney/party association. Failure to uncheck the box creates an association where there actually is none. The most common examples we’ve seen are:

- Creditor’s attorney files a stipulation agreement on behalf of their client and the debtors; failure to uncheck the box will result in the creditor’s attorney appearing on the docket as counsel for the debtors.
- Debtor’s attorney files a Notice of Intent to Abandon for the trustee; failure to uncheck the box will result in the debtor’s attorney appearing on the docket as counsel for the trustee and the debtor.

IMPORTANT: The following attorney/party association(s) will be created in this case. De-selecting a party association will result in the filing attorney NOT receiving Notices of Electronic Filing for that party. If this is a joint filing, review the list carefully to ensure that only parties represented by the filing attorney are selected.

Schmo, Joe(pty:db) represented by Bumstead, Dagwood (aty)

Please be mindful of the requirement to **uncheck** this box when necessary. Thank you.

Filing on Negative Notice

Please review the Permissive [Use of Negative Notice](#) list available on our website for a complete list of items allowed to be filed on negative notice. The negative notice filing of documents or pleadings which are not included on this list may result in a Submission Error Notification.

Use of the correct filing event, i.e., one that is designated as a negative notice event, will create the applicable response deadlines in CM/ECF and prevent your matter from being set for hearing in error. Additionally, please ensure that your response language/negative notice legend contains the [correct mailing address](#) for the Clerk’s Office to ensure efficient handling.

Board Of Advisors

Please visit the [Board of Advisors](#) page on our website for a list of [current members](#), to use the [Topic Request Form](#) to submit an idea for consideration by the Board, or to view meeting summaries.

Academies, Conventions, Conferences, Seminars...

Please visit the websites of The Florida Bar and the Business Section of The Florida Bar for information on training and conference opportunities available to attorneys in Florida.

The Florida Bar
www.floridabar.org

The Florida Bar Business Section
www.flabizlaw.org



Martie Kantor
35 Years
Tallahassee

Martie began working for the Bankruptcy Court in September, 1978, and has been Judicial Assistant to all three bankruptcy judges in the Northern District. She started with Judge N. Sanders Sauls performing not only JA duties, but also managing all the Pensacola cases, scheduling court hearings, and serving as a courtroom deputy until 1984. In 1986, about the time Judge Killian came on board, both the office and the caseload began to grow, her duties shifted to more JA duties while continuing to handle the court's scheduling.

Prior to coming to the court, Martie worked for the Florida Department of Commerce and the Office of the Governor. She also served in the U.S. Army Reserve for six years as part of the 400th MP Camp.

She has been an active member of the Association of Bankruptcy Judicial Assistants (ABJA) since 1999, and served in many capacities. She was the President in 2004, has served on the Conference and CLE committees, and has been the Editor of their quarterly newsletter, *Behind the Bench*. The last three years she has served as the 11th Circuit Representative for the Judicial Secretaries Advisory Group (JSAG), an Administrative Office peer advisory group.

Martie has announced her plans to retire effective January 3, 2014. *"I have seen many changes through the years from paper to electronic filing, and leaving is bittersweet. I have had the pleasure of working with so many wonderful people and will miss the many friends I have made both in and out of the Court system. I wish to extend my thanks and appreciation to all of you, but especially to all my judges, who have made coming to work so enjoyable."*

While she is retiring from court service, she hopes to take on new challenges to stay busy and is looking forward to traveling and spending more time with her three children and grandchildren.



Monica Broussard
10 Years
Pensacola



Monica joined the Clerk's Office in July, 2003, after leaving Washington Mutual Finance where she worked as a team leader in the Bankruptcy Mortgage Department for 3 ½ years.

Initially hired as an Intake Clerk, Monica is now a Case Administrator in the Pensacola office, and serves as Courtroom Deputy for the Alabama Judges in the Pensacola Courtroom. She received her Associates degree as a Paralegal from the Southwest Paralegal College, through the University of Louisiana, where she graduated with honors. Prior to moving to Florida from Lafayette, Louisiana, she was employed as a Paralegal for a local law firm for several years.

As Monica reflects, she states, "Over the last 10 (ten) years, I have been blessed to witness many exciting changes & developments that add to the quality of the Northern District of Florida Bankruptcy Court. I am deeply grateful for the opportunities that have been afforded me over the past 10 (ten) years, especially the privilege of knowing and working with some of the finest group of individuals. And, I look forward with excitement and anticipation to all that the future holds as the Northern District of Florida Bankruptcy Court continues to build on its excellence."

HOLIDAY CLOSINGS

We will be closed in observance of the following designated federal holidays:

Monday, October 13 - Columbus Day
Monday, November 11 - Veterans Day
Thursday, November 28 - Thanksgiving Day
Wednesday, December 25 - Christmas Day

CM/ECF will be available for electronic filing.

These dates are designated public holidays pursuant to 5 U.S.C. 6103(a).

FLNB Resources

Rev. 09/13

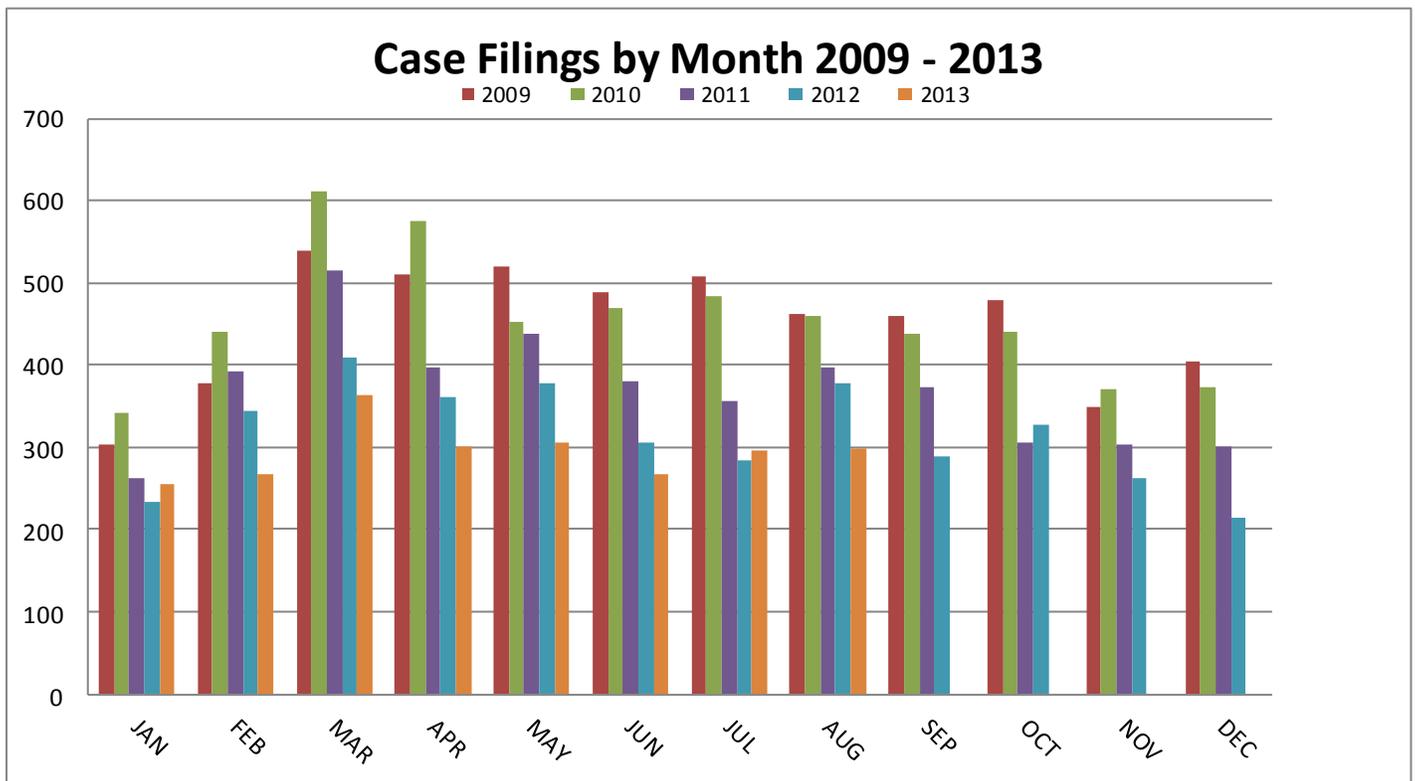
Cases in the Northern District of Florida are randomly assigned to Case Administrators throughout the district soon after filing. The name of the Case Administrator to whom a particular case is assigned is located at the top of the docket report in CM/ECF.

Ann Laritz (850) 470-3060	Latonia Isom (850) 521-5012	Janet Nah Courtroom Deputy & Calendar Clerk (850) 521-5009	Ne'Shoni Love CM/ECF Login & Password (850) 521-5011 (866) 639-4615
Carolyn Romine (850) 470-3062	Lisa Davis (850) 521-5010	Melanie Lawrence (407) 237-8021 <i>for cases assigned to Judge Jennemann only</i>	Help Desk (850) 521-5001 (866) 765-1752
Claire Bikowitz (850) 521-5016	Monica Broussard (850) 470-3061		

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. The Clerk's Office is not permitted to answer legal questions nor can we provide guidance as to the content or types of documents that may be required.

CMECF_HelpDesk@flnb.uscourts.gov

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



The monthly filing and closing [statistics](#) for the U.S. Bankruptcy Court for the Northern District of Florida are 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.