



BANKRUPTCY BUZZ

LOCAL NEWS AND INFORMATION

www.flsb.uscourts.gov

UNITED STATES
BANKRUPTCY COURT
SOUTHERN DISTRICT OF
FLORIDA

OCTOBER 2011

COURT IMPLEMENTS PRO SE DEBTOR IDENTIFICATION REQUIREMENT

On August 1, 2011, this court's amended local rules went into effect. One of the significant changes is the addition of new Local Rule 1002-1(B)(1)(d), that implements a new photo identification requirement for debtors filing a petition without an attorney. Our Clerk of Court, Katherine Gould Feldman, discussed this new requirement in an interview with the Bankruptcy Buzz.



Clerk of Court Katherine Gould-Feldman oversees implementation of pro se debtor photo ID requirement

Mrs. Feldman advised that the clerk's office engaged in several public outreach initiatives to provide advance notice to the public regarding this new requirement. In addition to posting a detailed public notice at all intake counters and on the court's web page, the notice was mailed to all known bankruptcy petition preparers who filed petitions on behalf of pro-se debtors during the past year. The notice was also sent to the Bankruptcy Bar Association for posting at all pro-bono clinic locations and intake staff gave copies of the notice to all individual debtors, runners and petition preparers who came into the court to file a bankruptcy petition.

Mrs. Feldman was asked to explain the details of the new requirement. She reported that as of August 1, 2011, all individual debtors filing a bankruptcy petition without an attorney must provide a current government issued photo I.D. If the petition is a joint petition, and only one spouse appears in person to file the petition, a legible copy of the absent spouse's I.D. must be provided at the time of filing. Individual and joint debtor petitions filed by mail must be accompanied by a photocopy of the debtor's I.D. If someone other than the debtor attempts to file a petition that individual must present a current government issued photo I.D. and an original notarized power of attorney authorizing that person to file the petition on the debtor's behalf. The petition must also be accompanied by a copy of the debtor's I.D. Failure to comply with these I.D. requirements will result in the petition being rejected for filing by the clerk's office. If a joint petition is filed in person or by mail, and only one of the joint debtors' I.D. is provided, the petition will be accepted for filing but a deficiency notice

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LOCAL RULES AMENDED

The Local Rules of this court have been amended effective August 1, 2011. Revised versions of Local Forms, Court Guidelines and Clerk's Instructions were amended in conjunction with the rules amendments and have been posted on the court website. The court's website information pages and links are also being updated. For further information, please refer to Administrative Order 11-02 "Adoption of Amended Local Rules and Clarification of Status of Local Forms, Court Guidelines, Clerk's Instructions and Administrative Orders," posted on the court website www.flsb.uscourts.gov.

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Bankruptcy Cases Filed From 1/1/11 to 8/31/11:

- Total Filed: 24,621**
- Chapter 7: 18,256
 - Chapter 9: 0
 - Chapter 11: 239
 - Chapter 12: 6
 - Chapter 13: 6,117
 - Chapter 15: 3

Additional filing statistics are available on the court website home page under this tab:





SUMMARY OF NEW & REVISED FEDERAL BANKRUPTCY FORMS AND RULES EFFECTIVE 12/1/11 AND PROPOSED BANKRUPTCY AMENDMENTS PUBLISHED FOR PUBLIC COMMENT

Jim Wannamaker, Staff Attorney with the Bankruptcy Judges Division, Administrative Office of the United States Courts, has provided Bankruptcy Buzz with the following report on new and revised federal bankruptcy forms and rules which will take effect December 1, 2011 and on proposed bankruptcy rule amendments which have been posted with a public comment deadline of February 15, 2012.

New and Revised Forms Posted

Copies of three new Bankruptcy Official Forms to be used with home mortgage claims in chapter 13 cases have been posted in the Pending Forms section of the Judiciary web-site at :

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx>.

Fourteen other amended Official Forms, a summary of the new forms and changes, and Committee Notes that provide more detailed information are posted with the new forms.

The amendments to Official Forms 1, 9A - 9I, 10, and 25A, and new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2) are scheduled to take effect on December 1, 2011.

The new forms, along with amended Rule 3001 and new Rule 3002.1, apply to claims secured by a security interest in a chapter 13 debtor's home. Some of the provisions also apply to secured claims in an individual debtor's case in other chapters. The amended rule and the new rule will take effect on December 1, 2011, unless Congress acts to the

contrary.

Official Form 1 is amended to implement new Rule 1004.2, which requires an entity filing a chapter 15 petition to state the country of the debtor's main interests and to list each country in which a case involving debtor is pending.

Forms 9A - 9I are amended to conform to the pending amendment of Rule 2003(e). When a meeting of creditors is adjourned, the amendment requires that the presiding official file a statement specifying the date and time to which the meeting is adjourned.

Form 10 is amended to clarify that, consistent with Rule 3001(c), writings supporting a claim or evidencing perfection of a security interest - not just summaries - must be attached to the proof of claim. The amended form includes a new section for reporting a uniform claim identifier, which is used by some creditors and chapter 13 trustees to facilitate payments by electronic fund transfers. The signature box is revised to include a declaration under penalty of perjury by the person who completes the form that the information provided "is true and correct to the best of my knowledge, information and reasonable belief".

The amendment to Form 25A changes the effective date provision in the model small business plan to reflect the 2009 amendments that increased from 10 to 14 days the time to file a notice of appeal and the duration of the stay of a confirmation order.

A technical amendment to Director's Procedural Form 240A/B ALT will be effective on December 1. The form is amended to conform to an amendment to 11 U.S.C. § 524(k)(3)(j) by

the Bankruptcy Technical Corrections Act of 2010, Pub. L. No. 111-327. The amendment is posted on the Pending Forms page, too.

New and Amended Rules Take Effect on December 1, 2011

Amendments to Rules 2003, 2019, 3001, 4004, and 6003, and new Rules 1004.2 and 3002.1, also are scheduled to take effect on December 1. The text of the proposed rules amendments and additional information on the amendments is available on the Federal Rulemaking page at:

<http://www.uscourts.gov/RulesAndPolicies/FederalRulemaking/PendingRules.aspx>.

New Rule 1004.2 requires that an entity filing a chapter 15 petition state the country of the debtor's main interests and list each country in which a case involving debtor is pending.

When a meeting of creditors is adjourned, the amendment to Rule 2003 requires that the presiding official file a statement specifying the date and time to which the meeting is adjourned.

The amendment to Rule 2019 expands the scope of the rule's disclosure requirements by requiring specified disclosures in chapter 9 and chapter 11 cases by all committees, groups, or entities that consist of or represent more than one creditor or equity security holder.

As amended, Rule 3001(c)(2) requires creditors to provide additional

(continued on page 3)



FEDERAL RULES AND FORMS AMENDMENTS EFFECTIVE 12/1/11 AND PROPOSED RULES AMENDMENTS (continued from page 2)

information for claims in an individual debtor's case and provides for sanctions if the creditor fails to comply. If the claim includes interest, fees, expenses, or other charges, an itemized statement must be filed with the proof of claim. If the claim is secured by a security interest in an individual debtor's property, a statement of the amount necessary to cure a default, if any, must be filed with the claim. If a security interest is claimed in the debtor's home, new Form 10 (Attachment A) must be filed with the proof of claim.

In a chapter 13 case, new Rule 3002.1 requires that a home mortgage creditor give notice of postpetition fees, expenses, or charges and advance notice of postpetition changes in the mortgage payment amount. New Form 10 (Supplement 1) would be used to provide at least 21 days' advance notice of any escrow account payment adjustment, interest payment change, and any other mortgage payment change while a chapter 13 case is pending. New Form 10 (Supplement 2) would be used to provide notice of postpetition fees, expenses, and charges. The notice must be given within 180 days after the fees, expenses, and charges are incurred.

New Rule 3002.1 also establishes a procedure for determining whether a chapter 13 debtor has cured any default and is otherwise current on mortgage payments at the close of the case and provides for sanctions if the holder of the home mortgage claim fails to provide the required information.

The new rule and forms are intended to aid in the implementation of section 1322(b)(5) of the Bankruptcy Code, which permits a chapter 13 debtor to cure a default and maintain payments on a home mortgage over the course of the debtor's plan.

The amendment to Rule 4004 permits a party to object to the debtor's discharge if the party discovers certain types of wrongdoing by the debtor during the "gap" period between the expiration of the time for objecting to discharge and the entry of the discharge.

The amendment to Rule 6003 clarifies that the 21-day waiting period before a court can enter certain orders at the beginning of a case, including an order approving employment of counsel, does not prevent the court from specifying an effective date for the order that is earlier than the date the order is issued.

Proposed Rules and Forms Published for Comment

Proposed amendments to six Bankruptcy Rules and four Official Forms have been posted for comment on the Federal Rulemaking website at :

<http://www.uscourts.gov/RulesAndPolicies/FederalRulemaking/PublishedRules.aspx>.

The deadline for submitting comments is February 15, 2012.

The bankruptcy rules committee has tentatively scheduled public hearings on the proposed amendments to Rules 1007, 3007, 5009, 9006, 9013, and 9014, and Official Forms 6C, 7, 22A, and 22C, in Washington, D.C., on January 13, 2012, and in Chicago, Illinois, on February 10, 2012.

Requests to testify must be submitted at least 30 days before the scheduled hearing.

Official Form 22C would be amended to implement the Supreme Court's decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010), by directing an

above-median-income chapter 13 debtor to list any changes in the reported income and expenses that have already occurred or are virtually certain to occur during the 12 months following the filing of the petition.

Proposed amendments to Forms 22A and 22C align the allowable deduction for telecommunication expenses with the IRS list of Other Necessary Expenses.

Rules 1007(b) and 5009(b) would be amended to allow providers of personal financial management courses to file directly with the court a statement of a debtor's completion of the course. If the provider does not file the statement, the debtor must file a certification of completion, as is specified by the rule now.

The amendments to Rule 3007 would allow the use of a negative-notice procedure for claim objections and clarifies the manner for serving the objections.

The amendments to Rules 9006, 9013, and 9014 would draw attention to the fact that Rule 9006 prescribes default deadlines for serving motions and written responses; and would apply deadlines to any written response to a motion.

The amendment to Form 6C stems from the Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010). The form would be amended to provide an express option for the debtor to state an intent to exempt the full fair market value of an asset, rather than a specific exemption amount.

The definition of "insider" on Form 7 would be amended to be consistent with the definition in the Bankruptcy Code.



ELECTRONIC FILING OF PROOF OF CLAIM VIA COURT WEBSITE

A new feature is now available that will permit creditors to electronically file proofs of claim via an online fillable "Proof of Claim" form. This feature is primarily intended for use by creditors who are not registered users of CM/ECF, who previously had to file their claims in paper format. However, CM/ECF registered users may also file claims using this new feature.

Electronically filed claims will immediately appear on the court's official claims register. The program also allows at the time of filing for the submission of attachments to the claim (in PDF format). The filer will also have the ability to print a confirmation copy of the claim which will reflect the official file stamped date.

Use of the court's electronic claims filing program does not require registration. To access this new feature or obtain additional information visit the court's website at: www.flb.uscourts.gov and select the following tab:

[Electronic Filing of
Proof of Claim](#)

CLERK TO DISCONTINUE MAILING PROOF OF CLAIM FORMS

As a cost containment measure, the Administrative Office of The United States Courts has recommended that all bankruptcy courts discontinue the practice of mailing copies of Official Form B10, Proof of Claim as an attachment to the notice of commencement of case.

Based on a recent court study, an average of only 4.3 percent of the claims filed were filed using the court-mailed proof of claim form. The overwhelming majority of the claims filed are created electronically by the creditor's software or through some other electronic forms creation application. Additionally, there is no rule or statutory requirement for the clerk to mail the proof of claim form.

By eliminating the printing and mailing of the proof of claim form with court generated notices, the Judiciary will realize a savings of over \$1.2 million in fiscal year 2012.

Therefore, effective October 1, 2011, the clerk's office will discontinue the mailing of a proof of claim form with every ASSET Notice of Commencement of Case and Notice of Deadline to File Claims. A proof of claim form can be obtained by visiting the court website at www.flb.uscourts.gov. As an alternative filing method, claims may also be filed by using the court's new electronic claims filing feature available on the court's website.

NOTICE OF CM/ECF SOFTWARE UPGRADE



On Friday, October 7, 2011, at 5:00 p.m., the United States Bankruptcy Court for the Southern District of Florida will shut down and take offline ALL electronic case management systems (CM/ECF and ECF PACER) for a software upgrade to CM/ECF version 4.1. We expect these systems to be back online sometime on Monday October 10, 2011. The clerk's office will advise when the systems become operable and available for use. We apologize for the inconvenience this may cause and thank you for your anticipated cooperation during this time.

**ELECTRONIC BANKRUPTCY NOTICING**

The Bankruptcy Noticing Center (BNC) was established by the Administrative Office of the U.S. Courts to provide a centralized process for preparing, producing, and sending bankruptcy court notices by conventional mail or electronic transmission (EBN).

[Note: Only those notices sent out by the court are processed through the BNC]

Electronic Bankruptcy Noticing (EBN) is a free service from the BNC on behalf of the U.S. Bankruptcy Courts that provides electronic noticing in Email or Electronic Data Interchange (EDI) formats, while reducing the delivery time and the postage costs associated with conventional mail service. EBN is primarily intended for attorneys and creditors who routinely receive bankruptcy notices and are not ECF (Electronic Case Files) registered users.

Email recipients may select one of the following delivery options:

1. One email containing one link to a single PDF file which contain multiple notices;
2. A separate email for each notice with a link to the corresponding PDF file; or
3. One email containing multiple links to multiple PDF files.

Email recipients have an opportunity to view and print PDFs without cost, but this must be done on the first use of the email link within 30 days of receipt. If you attempt to use the link a second time or the 30-day period has expired since you received the initial Email containing the link, you will be redirected to the court's PACER system. Public Access to Court Electronic Records (PACER) is an electronic public access service provided by the federal Judiciary that allows registered users to obtain case and docket information from federal appellate, district and bankruptcy courts.

EDI is an electronic noticing format that transmits notices between computers in "raw data" format in lieu of receiving paper notices. EDI is intended for those creditors that receive thousands of bankruptcy notices, but is limited to only to the section 341 meeting of creditors notice, discharge of debtor, notice of deadline to file claims and some orders of dismissal.

To register or learn more about Electronic Bankruptcy Noticing (EBN) visit: <http://ebn.uscourts.gov/court>.

To register or learn more about PACER visit: <http://www.pacer.gov>.

~ Joe Falzone

PAYMENT ADVICE DEFICIENCIES

The Local Form, "Declaration Regarding Payment Advices" was created to assist debtors with meeting the filing requirements of 11 U.S.C. §521 (a)(1)(B)(iv) or for notifying the court that payment advices will not be filed. The payment advice disclosures must represent all evidence of income received by the debtor and/or joint debtor within the 60 days prior to the filing date of the petition.

The local form contains a series of checkboxes used to describe various sources of income. The court encourages use of this form for all individual debtors and it should contain a check mark next to one or more of

the four descriptions. Further, it must contain the signature of the attorney or debtor and/or joint debtor, and if applicable, MUST contain redacted personal identifiers on any attachment.

Common filing errors:

- ◆ If the first box is checked to indicate payment advices are attached, such as a common pay stub, ensure that the debtor and/or joint debtor's social security number is redacted pursuant to Local Rule 5005-1(A)(2). Full social security numbers must not be disclosed.
- ◆ If the third box is checked to indicate payment advices are not at-

tached, ensure a checkmark appears in one or more of the six supporting descriptions.

- ◆ If the fourth box is checked to indicate that none of the prior descriptions apply, provide a statement of explanation in the space provided or attach a separate explanation.

The clerk's office may issue a deficiency notice for any case in which payment advices are not sufficiently documented.

~ Lucie Fleurimond



ATTORNEY APPEARANCES AND WITHDRAWALS

Case Management
CM / ECF
Electronic Case Filing

The clerk's office issues CM/ECF e-filing user accounts that are specific to individual attorneys. Stated another way, non-individuals such as a law firm cannot make an appearance to represent a client. For this reason, all docketing activity with regard to an appearance or withdrawal is specific to an individual attorney.

The following specifies three CM/ECF events an attorney may select to file a document in compliance with **Local Rule 2091-1, Attorneys - Withdrawals and Substitutions**.

- ◆ The CM/ECF docketing event [Bankruptcy > Attorney-Filed Documents > Notice to Withdraw Appearance](#) is **ONLY** used by an individual attorney to withdraw his/her own appearance. A firm and/or other attorney may not use this event to withdraw another attorney's appearance. *Local Rule 2091-1 specifies conditions when a Notice may be filed, as well as service requirements.*
- ◆ The CM/ECF docketing event [Bankruptcy > Motions/Applications > Substitute Attorney](#) is used for filing a "joint motion" for substitution of counsel which clearly identifies the names of the "added" and "removed" attorney. CM/ECF will prompt the e-filer to enter these names. The motion must certify that the client has consented to the substitution, and the content must also comply with service requirements as specified in Local Rule 2091-1. *Pursuant to Local Rule 9013-1(C)(23), this type of motion may be considered by the judge without a hearing.*
- ◆ The CM/ECF docketing event [Bankruptcy > Motions/Applications > Withdraw as Attorney](#) is used for filing a motion not applicable to the circumstances identified above.

~ Cameron Cradic

NOTICE OF ADOPTION OF TWO NEW LOCAL FORM ORDERS FOR USE BY CHAPTER 7 TRUSTEES

Local Form 104 - "Order Awarding Final Trustee's Fees and Expenses" and Local Form 105 - "Order Awarding Final Trustee and Professional Fees and Expenses". The new local form orders will be used by chapter 7 trustees when submitting proposed orders awarding final fees and expenses related to Final Reports filed on or after June 15, 2011. Copies of local forms, administrative orders and local rules are available on the court's web site www.flb.uscourts.gov.

COURT IMPLEMENTS PRO SE DEBTOR ID REQUIREMENT (CONTINUED FROM PAGE 1)

will be issued giving the joint debtor seven days to comply with the I.D. requirement. Failure to comply will result in the joint debtor's dismissal from the case.

Mrs. Feldman advised that the decision to implement the I.D. requirement was a judicial one based on statistical data that showed a significant increase in chapter 13 "skeleton" petitions being filed by individuals not represented by attorneys, most of which were installment cases that were subsequently dismissed for failure to file schedules. Many petitions were filed by runners or other individuals on behalf of the

named debtors and some were repeat filings where it was obvious to intake staff that a name, address or social security number had been altered to avoid detection of a repetitive filing. The judges also received several complaints from trustees, attorneys and creditors regarding the increase in fraudulent filings.

While researching this process for the court, the clerk polled other bankruptcy courts and found six courts that currently have a pro-se filer I.D. requirement: GA Northern, IN Southern, LA Western, IL Northern, DC and OH Northern. Courts that have

declined to implement identification procedures rely on the bankruptcy trustee to review debtor identification at the meeting of creditors. The clerk pointed out, that this is not an effective deterrent because the cases are often dismissed for failure to comply with filing requirements so the debtors never appear at a 341 meeting but have staved off a foreclosure action in bad faith.

The Clerk advised very few petitions have been rejected for failure to comply with the new I.D. requirement.

~ Dawn Leonard

**FREE BANKRUPTCY CLINICS OFFERED TO THE PUBLIC**

Dade Legal Aid/Put Something Back Pro Bono Project, Legal Aid Society of Palm Beach, Inc., American College of Bankruptcy & The Bankruptcy Bar Association of the Southern District of Florida Present a Free Pro Se Clinic at the Bankruptcy Courthouse On the Following Dates and Times:

Miami Division: 51 SW 1 Avenue, Courtroom 1410

Friday, October 14, 2011 12 pm – 2 pm
Friday, November 18, 2011 12 pm – 2 pm
Friday, December 16, 2011 12 pm – 2 pm

Fort Lauderdale Division: 299 East Broward Boulevard, Courtroom 301

Friday, October 21, 2011 12 pm – 1:30 pm
Friday, November 18, 2011 12 pm – 1:30 pm
Friday, December 16, 2011 12 pm – 1:30 pm

West Palm Beach Division: 1515 North Flagler Drive, 8th Floor, Courtroom B

Thursday, September 29, 2011 11:30 am – 1 pm
Thursday, October 20, 2011 11:30 am – 1 pm
Thursday, November 17, 2011 11:30 am – 1 pm

You cannot bring cellular phones, pagers, and other electronic devices to the courthouses. You will not be allowed entry and will not be able to access the clinic if you have any electronic devices on you.

At the clinic, there will be a 45 minute video presentation outlining procedures for filing bankruptcy. Next, there will be a question and answer session. Then, you may meet with a bankruptcy attorney to discuss your case and get advice on general bankruptcy matters. Please note that the project/volunteers do **NOT** represent you and take no responsibility for your case. You are responsible for responding to any pleadings and for protecting your own legal rights.

FOR FURTHER INFORMATION, PLEASE CONTACT:

MIAMI: amiranda@dadelegalaid.org

FORT LAUDERDALE: kimberly.salamone@ntmlawfirm.com

WEST PALM BEACH: erosen@rosenwinig.com



BANKRUPTCY UNSCRAMBLE ~ Debbie Lewis

INSTRUCTIONS: Unscramble each of the clue words. Take the letters that appear in these boxes  and unscramble them for the final message.

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|-------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| REUTETS | <input type="checkbox"/> |
| ODCETRIR | <input type="checkbox"/> |
| OISEPDT | <input type="checkbox"/> |
| DETRURNE | <input type="checkbox"/> |
| ROONFTEGT | <input type="checkbox"/> |
| NAPPAITICLO | <input type="checkbox"/> |
| NEOMY | <input type="checkbox"/> |

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| <input type="checkbox"/> |
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THE ABOVE TWO WORDS MAY BE A SOURCE OF UNEXPECTED DIVIDENDS (answers below)

Upcoming Court Holiday Closing Dates
 Columbus Day — Monday, October 10, 2011
 Veterans Day — Friday, November 11, 2011
 Thanksgiving Day — Thursday, November 24, 2011

CONTACT BANKRUPTCY BUZZ PUBLICATION STAFF

If you have any comments regarding this issue or want to suggest ideas for future articles, please contact “Bankruptcy Buzz” staff at the following email address

Debbie_Lewis@flsb.uscourts.gov.

Please do not use the above email address to file or send papers to the court or to ask questions about court procedure or status of a particular case. Contact the clerk’s office at any of the following numbers for assistance in these matters. Visit the court website www.flsb.uscourts.gov for local filing information.

Thank you.

Miami: (305) 714-1800
 Ft. Lauderdale: (954) 769-5700
 West Palm Beach: (561) 514-4100

Please Note:
Clerk’s office staff is not permitted to give legal advice.

COURT MISSION STATEMENT

To promote public trust and confidence in the administration of bankruptcy cases:

- through easy access to comprehensible, accurate information about the court, its procedures, and records;
- by the efficient, respectful, and dignified conduct of business at all levels of the court—clerk’s office, chambers and courtroom;
- through adjudication of bankruptcy cases by a fair and impartial tribunal that is designed to provide relief to the honest debtor, equitable distribution of available assets to creditors, and preservation of jobs and value through successful business reorganizations.

ANSWERS TO
 BANKRUPTCY
 UNSCRAMBLE
 Scrambled
 Words:
 trustee
 creditor
 deposit
 returned
 forgotten
 application
 money
 Question
 Answer:
 “UNCLAIMED
 FUNDS”