



# BANKRUPTCY BUZZ

LOCAL NEWS AND INFORMATION

UNITED STATES BANKRUPTCY  
COURT SOUTHERN DISTRICT  
OF FLORIDA

APRIL 2014

## REPORT ON THE MORTGAGE MODIFICATION SUMMIT BY: CHIEF JUDGE PAUL G. HYMAN

On February 27, 2014, the Middle District of Florida hosted a statewide Chapter 13 Mortgage Modification Mediation Summit in Orlando, FL. The purpose of the Summit was to provide an open forum for debtor's attorneys, mediators, lenders and chapter 13 trustees to discuss and compare the three mortgage modification mediation programs offered in the Southern, Middle and Northern Districts of Florida, with a focus on what is working well and on possible efficiencies that could be implemented to improve the respective programs.

In preparation for the Summit, our court developed a Mortgage Modification Mediation (MMM) survey that was utilized by all three courts to gauge the successes and failures of each program and to solicit feedback on significant differences between the programs to determine if there was a desire to adopt a uniform program throughout the state. The survey results served as a road map for developing the panel discussion topics at the Summit. All bankruptcy judges from the Middle District, Judge Species from the Northern District and I, as the judicial liaison representative from the Southern District, attended the Summit.

After the Summit, the judges met for dinner and agreed to strive for uniformity between the three districts. It was tentatively decided, subject to formal adoption, that:

MMM should be available in all chapters and for all types of property;

Motions for MMM should be filed within 90 days of case filing or conversion; motions filed beyond the 90 days will be set for hearing;

MMM should be concluded within 150 days of the filing or conversion of the case, unless otherwise ordered by the court;

The address of the subject property and the last four digits of the mortgage loan number should be included in the motion;

The three districts will work toward a uniform order of referral to MMM;

(continued on page 2)

Administrative Order 14-02 "Appointment of Advisory Committee for the Study of the Local Rules of Practice" was entered on April 1, 2014.

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### Bankruptcy Cases Filed From 1/1/14 to 3/31/14:

#### Total Filed:

- Chapter 7 : 4,319
- Chapter 9 : 0
- Chapter 11 : 88
- Chapter 12 : 1
- Chapter 13 : 3,098
- Chapter 15 : 1

Total Filings : 7,507

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



**REPORT ON THE MORTGAGE MODIFICATION SUMMIT (continued from page 1)**

Both parties (debtor and lender) should be involved in the mediator selection process;

Mediator fees should be shared 50/50 between the lender and the debtor;

The mediator may require an advance deposit of the initial or flat fee component of the mediator's fees;

Debtors should upload documents to a secure portal before filing the MMM motion;

The portal should permit access to more than one lender's attorney;

The parties may orally communicate outside the portal;

A motion for an order approving an MMM agreement should be filed using the respective court's negative notice procedure;

An order approving an MMM agreement should be recorded by the lender in the public records of the county in which the property that is the subject of the MMM motion is located; and

The SDFL should join with the other districts in allowing HOA fees to be deducted from the 31% gross income to repayment of any mortgage modification.

On behalf of the Southern District of Florida, I want to thank Chief Judge Karen Jennemann for her foresight and leadership in creating the MMM summit concept, Middle District of Florida Chapter 13 Trustee, Laurie Weatherford, and the MMM moderator, Liz McLausand, for designing the Summit agenda, and the subject matter panel experts, who did an outstanding job of addressing issues and answering questions raised at the Summit. I think all in attendance would agree that the Summit was a huge success.

**ADMINISTRATIVE OFFICE OF THE U.S. COURTS  
REPORT ON BANKRUPTCY FILING STATISTICS FOR FISCAL YEARS 2009 TO 2013**

The 2013 Annual Report issued by the Director of the Administrative Office of the U.S. Courts states that individuals and businesses filed 1,107,699 bankruptcy petitions in 2013, 12 percent fewer than in the previous year and the lowest total since 2008, when 1,042,806 petitions were filed. 2013 was the third consecutive yearly decline, marking a cumulative drop of 31 percent from the 1,596,355 petitions filed in 2010.

Read the full story and review additional statistics about bankruptcy and other federal court cases at these links:

<http://www.uscourts.gov/Statistics/JudicialBusiness/2013/us-bankruptcy-courts.aspx>  
<http://www.uscourts.gov/Statistics/JudicialBusiness/2013.aspx>



## Using the Correct “Stay” Docket Event in CM/ECF

There are several similarly-titled motion events in CM/ECF and what follows is a brief description of each. This will assist e-filers with proper event selection.

**Clarification of the Automatic Stay** – Filed by a creditor, no fee is charged, and it is commonly known as a request for a “comfort order” to confirm that the automatic stay has been terminated. The motion must specify a source of authority such as 11 U.S.C. §362(j) and §362(c)(1), as well as Local Rule 9013-1(D)(3)(j) if filed upon negative notice. Reference these citations for additional required statements and service requirements.

**Continue/Extend the Automatic Stay** – Filed by a party in interest, usually the debtor, and no fee is charged. The motion must specify a source of authority such as 11 U.S.C. §362(c)(3)(A) or (B).

**Impose Automatic Stay** – Filed by a party in interest, usually the debtor, and no fee is charged. The motion must specify a source of authority such as 11 U.S.C. §362(c)(4)(B) or (C).

**Relief from Stay** – Filed by a creditor, a fee is charged, and the motion may be filed for specific chapters upon negative notice with a 14-day response deadline pursuant to LR4001-1(C). *[Note: It is not to be confused with LR9013-1(D), which has a 21-day response deadline.]* The motion must reference the applicable section under 11 U.S.C. §362, BR4001, and pursuant to LR4001-1(B) the motion must comply with this court’s “Guidelines for Motions for Relief from the Automatic Stay.”

This event is a contested matter. Accordingly, the motion’s title, wherefore clause, and selected event(s) must be in sync. Further, it is often filed as a multi-part motion with other types of relief such as a request for Adequate Protection pursuant to 11 U.S.C. §361. Multi-part motions require the selection of two or more events. Applicable code and/or rule references should be cited. Finally, a proposed order should address ALL relief types contained in the motion.

An **Amended Motion for Relief from Stay** is generally not charged a second fee if it is filed prior to a judge’s ruling on the original motion. A footnote should identify the reason for the amendment. Select the event “Amended Motion” and the CM/ECF program will prompt the filer to link it to the original motion.

**Relief from Stay (Agreed)** – Filed by a party in interest and no fee is charged. The motion must state “Agreed” in the title and wherefore clause, specify a source of authority such as Bankruptcy Rule 4001(d), and comply with service and content requirements which includes a proposed order and applicable exhibits.

**Relief from Co-Debtor Stay** – Filed by an interested party and no fee is charged. The motion must specify a source of authority such as 11 U.S.C. §1201 or §1301, and comply with the requirements of Bankruptcy Rule 4001(d).

**Stay** - Filed by a party in interest and no fee is charged. This event is intended to halt execution or enforcement of a prior order or action, and the program will prompt for linkage to a prior docket entry.

By Cameron Cradic



### DOCKETING CONTESTED MATTERS IN CM/ECF

The Administrative Offices of the United States Courts monitors certain docket events referred to as “contested matters.” Case administrators keep a watchful eye for these events to ensure correct posture of a case.

There are certain e-filed scenarios that require corrective action. Let’s take a look at the following docket entry:

Filing Date	#	Docket Text
12/23/2013	120	Motion to Extend Time to File Section 727 Complaint [Obj to Discharge], <i>or, in the Alternative, to Dismiss the Case</i> Filed by Creditor The Bank.

The italicized wording quickly reveals that additional requested relief was entered manually by the e-filer. That’s a red flag. A motion containing multiple relief requests will require multiple events to be selected.

Another red flag is the use of generic events (ex: Miscellaneous Motion and Miscellaneous Application) because, more often than not, a dedicated event exists. Using the Search function in CMECF is a helpful way to view dedicated event selections.

#### Quick Tips:

For multiple relief requests - use multiple dedicated events.  
Avoid using generic events - unless there is no other option.

By: Lorraine Adam

### FEE INCREASES EFFECTIVE JUNE 1, 2014

The Bankruptcy Court Miscellaneous Fee Schedule has been amended as indicated in bold below. These fee increases will be effective on June 1, 2014. The USBC SSDFL “Clerk’s Summary of Fees” will be amended when the increases take effect.

a. Amended Item (6) as follows:

(6) For filing a complaint, **\$350**, except:

- If the trustee or debtor-in-possession files the complaint, the fee must be paid only by the estate, to the extent there is an estate.
- This fee must not be charged if –
- the debtor is the plaintiff; or
- a child support creditor or representative files the complaint and submits the form required by § 304(g) of the Bankruptcy Reform Act of 1994.

b. Amended Item (8) as follows:

(8) Administrative fee:

- For filing a petition under Chapter 7, 12, or 13, **\$75**.
- For filing a petition under Chapter 9, 11, or 15, **\$550**.
- When a motion to divide a joint case under Chapter 7, 12, or 13 is filed, **\$75**.
- When a motion to divide a joint case under Chapter 11 is filed, **\$550**.



## FREE BANKRUPTCY CLINIC

**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 Free Pro Se Clinics at the Bankruptcy Courthouse On the Following Dates and Times:**

**Miami Division: 51 SW 1 Avenue, Room 1510** (In Miami, you may bring a cell phone to the pro se clinic.)

Friday, April 11, 2014 12 p.m. – 2 p.m.

Friday, May 9, 2014 12 p.m. – 2 p.m.

Friday, June 13, 2014 12 p.m. – 2 p.m.

**Fort Lauderdale Division: 299 East Broward Boulevard, Courtroom 301\***

Friday, April 4, 2014 12 p.m. – 1:30 p.m.

Friday, May 2, 2014 12 p.m. – 1:30 p.m.

Friday, June 6, 2014 12 p.m. – 1:30 p.m.

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

Wednesday, April 16, 2014 11:30 a.m. – 1 p.m.

Wednesday, May 14, 2014 11:30 a.m. – 1 p.m.

Wednesday, June 18, 2014 11:30 a.m. – 1 p.m.

**\* In Fort Lauderdale and West Palm Beach, you cannot bring a cell phone or other electronic device to the courthouse or you will be denied entry. Cell phones and electronic devices will not be stored for 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: [kladis@dadelegalaid.org](mailto:kladis@dadelegalaid.org) (Karen Ladis)

Fort Lauderdale: [ksalamone@dkdr.com](mailto:ksalamone@dkdr.com) (Kimberly Salamone)

West Palm Beach: [erosen@rosenpa.com](mailto:erosen@rosenpa.com) (Eric Rosen)



**HIDDEN IN THIS WORD SEARCH PUZZLE ARE  
THE FOLLOWING LAST NAMES OF USBC SDFL  
BANKRUPTCY JUDGES APPOINTED SINCE THE  
BANKRUPTCY REFORM ACT OF 1978**

BRITTON  
CRISTOL  
FRIEDMAN  
GASSEN  
HYMAN  
HYMAN JR  
ISICOFF  
MARK  
OLSON  
RAY  
WEAVER

R A Y P T J I I Z S N M K J W  
H M V R K T P D E A W A Z T E  
H B S A O W N I R A X X M G S  
U Y J K Q Z A S Z F K E A Y C  
E N M E G D M I N U X S A R H  
M O T A A G D C W G S U L C G  
V S K J N O E O V E Y N W U U  
D L V S Q J I F N N Q N O U R  
A O Y V D L R F O X R Q V D X  
E T C F G W F T C R I S T O L  
U C U W J B T Y L P S K Z O K  
U W A W I I R L I Y C U T H K  
J H J H R B M K V U M C T R K  
U Z Y B L W K Z S I I O A G H  
G S H W O R E V A E W M W W D

**IF YOU WOULD LIKE TO LEARN MORE ABOUT  
BANKRUPTCY JUDGES VISIT**

[http://www.fjc.gov/history/home.nsf/page/judges\\_bank.html](http://www.fjc.gov/history/home.nsf/page/judges_bank.html)

**UPCOMING COURT HOLIDAY CLOSINGS**

Memorial Day - Monday, May 26  
Independence Day - Friday, July 4  
Labor Day - Monday, September 1  
Columbus Day - Monday, October 13

**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.*

**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](http://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.**