COURTHOUSE BEACON NEWS

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

SEPTEMBER 2025

# Being Proactive During Hurricane Season

By: Hon. Scott M. Grossman

With hurricane season in full swing, attorneys should be mindful of potential court closings due to storms. In determining whether to close, the Federal Courts follow the county school systems. In other words, if Broward County Schools will be closed due to a storm, then the Fort Lauderdale Division of the Court will be closed as well. The same thing goes for Miami-Dade County Schools and the Miami Division, and Palm Beach County Schools and the West Palm Beach Division.

The ability to work, electronically file documents, and even conduct hearings remotely makes storm closures somewhat less disruptive than they might have been in the past. But, when schools are closed, that means children are at home with parents who must care for them, often leading to a less-than-ideal environment to get work done or attend a remote hearing. There is also a risk of power or internet outages, rendering attorneys unable to timely file documents or attend remote hearings.

When a storm is approaching, attorneys must be mindful of filing deadlines, especially those set by statute for which Rule 9006 does not permit an extension. Even for those deadlines that under Rule 9006 can be extended, attorneys should be mindful of seeking an extension before expiration of the deadline – when the "for cause" standard applies – rather than after it expires, when the higher "excusable neglect" standard must be satisfied.

Of particular concern are time-sensitive motions in consumer cases under Bankruptcy Code section 362(c)(3)(B) to continue the automatic stay. Section 362(c)(3)(B) requires that the hearing on a request to continue the automatic stay be conducted and completed within 30 days of the petition date. It is of course best practice to file these motions on or shortly after the petition date. But many times they are not filed until close to the end of the 30-day period, resulting in a hearing set on the 29th or 30th day. If the Court then must close due to a storm, however, that would prevent the motion from being heard within the required 30 days.

What to do? First and foremost, attorneys need to be proactive – especially during hurricane season – by filing these motions early and having them set for hearing well before expiration of the 30-day period. An attorney should not risk the possibility of a storm closure canceling a hearing set on the 29th or 30th day.

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## INSIDE THIS ISSUE



## Bankruptcy Cases Filed From 01/01/25 to 08/31/25

| | |
|---|---|
| **TOTAL FILED:** | 10,245 |
| • Chapter 7 | 5,655 |
| • Chapter 9 | 0 |
| • Chapter 11 | 217 |
| • Chapter 12 | 1 |
| • Chapter 13 | 4,368 |
| • Chapter 15 | 4 |

Additional filing statistics are available on the court website www.flsb.uscourts.gov under the "Court Information" tab at the top of page.

Select: "Case Filing Statistics"

**Being Proactive During Hurricane Season** (continued from page 1)

But if the Court closes and as a result, a section 362(c)(3)(B) motion cannot be heard within 30 days, it is incumbent on debtor's counsel to file an emergency motion for a brief extension of the automatic stay pending a hearing after the Court reopens (sometimes called a bridge order). Counsel must then promptly upload for the Court's consideration the proposed bridge order.

There is no guarantee a bridge order will be entered (some judges may consider doing so; some may not), but it is incumbent on the attorneys – not the Court – to raise the issue *by filing a motion*. (A phone call to the Courtroom Deputy is not an appropriate means by which to seek relief.) Of course the best way to avoid this problem is to file section 362(c)(3)(B) motions early, and – especially during hurricane season – make sure they are set for hearing well before the expiration of the 30-day period.

## Practice Pointer: Effectively Using Declarations to Request Appearances by Power of Attorney

By: Sara McCann, Law Clerk

Some debtors may be unable to attend the required § 341 meeting due to physical disability, military service, mental incompetence, or other extenuating circumstances. Pursuant to a valid power of attorney, such debtors may authorize another individual with knowledge of their finances to appear at the § 341 meeting on their behalf. In support of a motion requesting this type of accommodation, it is good practice for the debtor's attorney to file a declaration by the holder of the POA contemporaneously with the motion.

Federal Rule of Bankruptcy Procedure 1004.1 addresses the filing of a voluntary petition on behalf of an infant or incompetent person by a representative fiduciary, "next friend" (such as the holder of a POA), or guardian ad litem. Local Rule 1004.1-1 outlines additional requirements in our Court, including that the POA holder must file and serve a declaration under penalty of perjury with the petition. The declaration must contain specific information, like why the debtor is unable to file the petition personally and whether the debtor incurred any debts on behalf of the POA holder. *See* Local Rule 1004.1-1(B)(2) (detailing contents of declaration).

Although this Local Rule does not directly govern requests for appearances through a POA at § 341 meetings, the same logic applies. A verified statement in support of the debtor's motion facilitates swift resolution by the Court, and service of the declaration pursuant to Local Rule 1004.1-1(B)(1) ensures all interested parties are fully informed of the circumstances.

**FROM THE JUDGES' CHAMBERS**

# Senior$mart$

By: Judge Laurel Isicoff and Tara Trevorrow, Law Clerk

Meet the newest joint initiative of the Bankruptcy Bar Association for the Southern District of Florida (BBA) and the Business Law Section of the Florida Bar (BLS): **Senior$mart$.** Built on a platform originally created by the National Conference of Bankruptcy Judges (NCBJ), the Senior$mart$ program hopes to empower Florida's older, vulnerable population with the ability to fight scammers and take control of their financial well-being.

Florida's more senior population has always been an easy target for scammers; some scammers continue to use the "old playbook," but with social media and technology, the types of scams are increasing exponentially, and the number of senior victims as well. But scams aren't the only challenge. With rising inflation and soaring housing costs (including increased insurance premiums and special assessments for condominium associations), members of our senior community are struggling to make ends meet on a fixed (and, for most of them, limited) income. Although the BBA and BLS cannot change economic forces, both associations hope to provide instruction that will help Florida residents find a secure footing in a shifting financial landscape. A typical Senior$mart$ presentation addresses topics ranging from reverse mortgage pitfalls to guaranteeing student loans to learning how to budget effectively when resources continue to shrink.

The Senior$mart$ program is launching quickly with support from volunteers around the state. Judge Isicoff, Amanda Klopp, Rhys Williams, and Angelo Castaldi developed and continue to refine presentation slides using source material from an NCBJ initiative several years ago. Stephanie Lieb, current President of the BLS, and Tara Trevorrow, Chair of the BLS Financial Literacy Task Force (FLTF) and Chair of the BBA Financial Literacy Committee, are recruiting volunteers in each of the major population centers throughout the state to assist with presentations. Judge Vaughan and Brett Lieberman (Judicial Chair and Vice Chair of the BLS FLTF, respectively) will help coordinate the BLS's participation in the program along with Alan Rosenberg, current President of the BBA. The end goals of Senior$mart$ are twofold: reduce bankruptcy filings by senior citizens and prevent financial stress caused by predatory actors.

Tara Trevorrow delivered the inaugural Senior$mart$ presentation on August 8, 2025, at Miami Beach City Hall. The initial response was positive and demonstrated the need for presentations in both English and Spanish. Paula Martinez will lead the materials translation team so that all members of our local communities can benefit from the information.

If you are interested in becoming part of the Senior$mart$ solution, whether as a presenter or to help finalize ancillary materials still in development, please reach out to Judge Isicoff at lmisicoff@flsb.uscourts.gov or to Tara Trevorrow at tara_trevorrow@flsb.uscourts.gov. We would also love to hear from you with respect to locating and coordinating presentation opportunities so that the initiative reaches as many people as possible. We would love to have your help!

## FROM THE JUDGES' CHAMBERS

### *Unlocking AI's Potential for Pro Bono Work*

By: Gabriela M. Mestre, Vyom R. Singh[1]

In the pro bono world, Artificial Intelligence could be transformative. AI automates time-consuming administrative tasks, which allows attorneys to focus on complex, high-value legal analysis. When AI handles tasks that consume a considerable portion of time but don't require legal reasoning, the number of cases a pro bono organization can take on dramatically increases and makes pro bono services far more accessible. This article will explore the ways AI is reshaping the pro bono sector, while also considering the risks that arise from its implementation.[2] The challenges associated with using it are worth attention, but they do not outweigh the benefits. Instead, they call for a thoughtful, informed adoption of AI in order to redefine pro bono work and reach heightened levels of access to the courts.

Pro bono legal services are usually resource-constrained and, as a result, often face financial, technological, and administrative limitations.[3] When organizations are understaffed, lawyers often spend too much time on administrative tasks. This diverts attention from representing clients in legal proceedings, which is the ultimate goal of pro bono services. These limitations can leave the most vulnerable individuals without legal representation. In fact, most low-income U.S. households face at least one civil legal problem each year, often involving high-stakes matters like housing, healthcare, child custody, and protection from abuse.[4] Yet 92 percent of the time, lawyers are not involved.[5] That is because pro bono organizations simply cannot meet the demand, which means that most people are not receiving the help they need. AI tools, however, may help solve this problem.

Although admittedly not perfect, AI systems can make the administrative part of the practice of law much more efficient. OpenAI's ChatGPT has brought those capabilities into public view on an unprecedented scale. It can read, write, and problem-solve in ways that attempt to simulate human reasoning. It does so in seconds and repeats tasks without fatigue. AI has the potential to make legal tasks much less labor-intensive, especially since many of the areas in which litigants need pro bono representation are often repetitive and form-driven (e.g., family law).

To that end, attorneys at the Cuban American Bar Association (CABA) Pro Bono Legal Services practice have begun using AI. CABA provides free legal assistance to low-income clients, many of whom are facing urgent legal crises. Using AI could be the difference between helping one client or ten. One attorney at CABA uses AI to create a structured plan for his week. He enters his court dates, deadlines, and tasks, asks the AI to estimate the time required for each, and then adjusts the plan based on his own experience. AI makes a schedule that keeps him on track and fully prepared for every hearing, filing, and meeting. "Something that used to take two hours now takes 30 minutes," he notes. AI's benefit to the attorney is twofold: it ensures that nothing falls through the cracks, and it frees his mental bandwidth for substantive legal work.

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[1]Gabriela M. Mestre and Vyom R. Singh were interns for Judge Lopez-Castro. Gabriela is an undergraduate student at Emory University, Class of 2027 and Vyom is an undergraduate student at Bates College, Class of 2027.

[2]It is recommended that attorneys review the Florida Bar Ethics Opinion 24-1, found at https://www.floridabar.org/etopinions/opinion-24-1/, or similar opinions in the jurisdiction where you practice, before entering client information into an AI prompt. Another great resource is the Florida Bar Guide to Getting Started with AI found at https://www.legalfuel.com/guide-to-getting-started-with-ai/.

[3]Emily Cardona, AI & Pro Bono, PBEye Blog (Sept. 25, 2023), https://www.probonoinst.org/2023/09/25/ai-pro-bono/.

[4]Hassan Kanu, Artificial Intelligence Poised to Hinder, Not Help, Access to Justice, REUTERS (Apr. 25, 2023), https://www.reuters.com/legal/transactional/artificial-intelligence-poised-hinder-not-help-access-justice-2023-04-25/.

[5]*Id*.

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## FROM THE JUDGES' CHAMBERS

**Unlocking AI's Potential for Pro Bono Work** (continued from page 4)

The benefits extend beyond his own time saved. For routine or low-level questions, attorneys can turn to AI instead of asking a supervisor, reserving meetings for complex questions. In his words, "saved time is everything." Every hour saved on administrative work can go towards taking on an additional legal issue that might have otherwise never received attention. As a corollary, every additional client that is served improves access to justice for everyone. Some pro bono offices are even using AI to help answer more simple questions that a lawyer would have had to answer before.

Another example of AI in pro bono is the Legal Information Assistant (LIA), Legal Aid of North Carolina's AI-powered, bilingual chatbot that provides 24/7 guidance on common civil legal issues like housing, benefits, and family law.[6] Without this technology, scores of lawyers would have had to spend hours obtaining critical information. Now, LIA does the work of many lawyers. This approach helps close access gaps for underserved communities.[7]

Yet, there are also risks to using AI. Many pro bono organizations rely on publicly available versions of ChatGPT because they lack the funding for private, enterprise-level AI tools.[8] This dependence creates unique challenges for pro bono practice that are far less common in other areas of law that are beginning to create their own private, locally hosted AI models. Most public generative AI models can output sensitive data. If a sealed exhibit, medical chart, or tentative settlement is entered into a public chatbot, there is no telling how many machines or legal jurisdictions that data would bounce across during a session. In 2021, researchers were able to extract Social Security numbers and proprietary code out of GPT-style systems using nothing more than engineered prompts,[9] proving that secrets do not always stay buried in an AI model's training data. This has dangerous ramifications for pro bono practices and generally for the practice of law.

These risks must be taken seriously, but they are not a reason to avoid AI altogether. The reality is that AI implementation in the pro bono legal sector has already begun and will likely continue. The challenge, now, is not whether to use AI, but how to do so responsibly while addressing these vulnerabilities. Pro bono organizations face these risks in particularly acute ways because of limited resources, but they are not alone. Any law firm—or any lawyer—who uses a public AI platform exposes themselves to the same confidentiality concerns. But these do not outweigh the benefits.

AI's impact is felt at every level of the legal system. For clients, it means better access to rights. It frees up lawyer time to focus on higher-value advocacy. Opposing parties benefit from fairer, faster proceedings, and courts see fewer delays and errors from unrepresented litigants. Put simply, AI makes the system work better for everyone.

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[6]Legal Aid of North Carolina, Legal Aid of North Carolina Launches AI-Powered Virtual Assistant to Enhance Access to Justice (July 10, 2024), https://legalaidnc.org/2024/07/10/legal-aid-of-north-carolina-launches-ai-powered-virtual-assistant-to-enhance-access-to-justice.

[7]*Id.*

[8]Kristen Sonday, AI for Legal Aid: How to Empower Clients in Need, Thomson Reuters Institute (Oct. 15, 2024), https://www.thomsonreuters.com/en-us/posts/legal/ai-for-legal-aid-empowering-clients/.

[9]Nicholas Carlini et al., Extracting Training Data from Large Language Models, in Proceedings of the 30th USENIX Security Symposium 2633 (2021), https://www.usenix.org/system/files/sec21-carlini-extracting.pdf

FROM THE JUDGES' CHAMBERS

## It's Not Personal… Or Maybe It Is: Rule 30(b)(6) Depositions and Corporate Representative Testimony at Trial

By: Michelle A. Keller[1]

Federal Rule of Civil Procedure 30(b)(6) allows a party to depose a corporation, a partnership, an association, a governmental agency, or another entity[2] through a designated representative, whose testimony represents the organization's official position. In a deposition, the representative need not have personal knowledge of the subject he or she is testifying about. Instead, the corporate representative testifies as to the knowledge of the organization. However, this changes at trial, where most courts interpret that because Federal Rule of Evidence 602 requires a lay witness to have personal knowledge of the matter in order to testify, corporate representatives are no exception—unless a hearsay exception applies.

***Depositions***

At a deposition, the corporate representative testifies about information "known or reasonably available to the organization"—whether the representative had personal knowledge of that information or not. This means the range of questions a corporate representative will have to answer to at a deposition is very broad. A corporate representative cannot simply say they do not know the answer to a question if the answer is known to the organization.

In fact, an organization has an obligation to prepare its representative for a 30(b)(6) deposition. That duty goes beyond matters personally known to the representative and extends to matters reasonably known to the organization. *See QBE Ins. Corp. v. Jorda Enterprises, Inc.*, 277 F.R.D. 676, 689 (S.D. Fla. 2012).

***Trial (In Most Jurisdictions)***

At trial in most jurisdictions, the rules change. In *Radke v. NCL (Bahamas) Ltd.*, Judge Bloom stated that "while Rule 30(b)(6) does not require a corporate deponent to have direct personal knowledge of the matters to which he or she testifies, Fed. R. Evid. 602 limits the corporate representative's trial testimony to matters that are within his or her personal knowledge." *Radke v. NCL (Bahamas) Ltd.*, No. 19-CV-23915, 2021 WL 1738928, at *2 (S.D. Fla. May 3, 2021). In *Radke*, the plaintiff was injured on the defendant's cruise ship and moved to preclude the defendant's corporate representative from testifying at trial about matters that were not based on her personal observations. The corporate representative, who was not present at the time of an incident, wanted to testify regarding the condition of the floor at the time the plaintiff fell and was injured. Although the court denied the plaintiff's motion stating that without the context of trial, it cannot rule on issues regarding the foundation for admitting testimony, it did cite to the rule that personal knowledge is required to testify at trial.

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[1]Michelle Adams Keller was Judge Lopez-Castro's term clerk from May 2024 to August 2025.

[2]For purposes of this article, I will use the word "organization" to refer to all of these types of entities collectively.

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## FROM THE JUDGES' CHAMBERS

**It's Not Personal… Or Maybe It Is:** (continued from page 6)

In *Radke*, Judge Bloom also cited to *Union Pump Co. v. Centrifugal Tech. Inc* for its explanation that a corporate representative may not testify to matters outside his own personal knowledge if such testimony is hearsay that does not fall within one of the exceptions. *Union Pump Co. v. Centrifugal Tech. Inc.*, 404 F. App'x 899, 907-08 (5th Cir. 2010). In *Union Pump Co.* the defendants argued that they were entitled to a new trial because the court permitted Union Pump's corporate representative to testify to matters that were not within his personal knowledge. Union Pump argued that the corporate representative was permitted to testify to matters that were within the knowledge of the corporation. The court disagreed, stating that a corporate representative cannot testify to matters outside his personal knowledge if the information is hearsay that does not fall within one of the exceptions[3].

***A Departure from the Majority***

While most courts have held that a corporate representative needs personal knowledge to testify at trial, some courts disagree with that interpretation. In *Brazos River Auth. v. GE Ionics, Inc.*, the court interpreted a corporate representative's ability to testify at trial virtually the same as his or her ability to testify at a deposition. The court held "if a certain fact is within the collective knowledge or subjective belief of [the corporation], [the corporate representative] should be prepared on the issue by [the corporation], and allowed to testify as to it, even if it is not within his direct personal knowledge, provided the testimony is otherwise permissible lay testimony." *Brazos River Auth. v. GE Ionics, Inc.*, 469 F.3d 416, 434 (5th Cir. 2006). Although *Union Pump* expanded upon the holding in *Brazos* by emphasizing that personal knowledge was not required if the testimony would be allowed in through a hearsay exception, some courts have interpreted *Brazos* to mean that a corporate representative can testify both in a deposition and at trial on matters to which they lack personal knowledge, notwithstanding Federal Rule of Evidence 602. *See Univ. Healthsystem Consortium v. UnitedHealth Group, Inc.*, 68 F. Supp. 3d 917, 921 (N.D. Ill. 2014).

***Conclusion***

Corporate representatives play a significant role in an organization's litigation. Understanding the rules and circuit splits can aid a litigator in choosing and preparing the best person for the job.

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[3]Although the court agreed that personal knowledge was needed for the corporate representative to testify at trial, it held that "any error in allowing [the corporate representative] to testify to matters that may have been hearsay was harmless." *Id*. at 908.

## FROM THE JUDGES' CHAMBERS

### Order of Operations: How the Supreme Court's Decision in *BLOM Bank SAL v. Honickman*[1] Affects Bankruptcy Litigation

By: Katelyn A. Garciga, Law Clerk

In *BLOM Bank*, the Supreme Court held that when a plaintiff seeks to amend a complaint after dismissal, the plaintiff must first satisfy Rule 60(b) before the court may apply Rule 15(a)'s liberal amendment standard. Accordingly, plaintiffs in dismissed adversary proceedings must meet Rule 60(b)'s higher standard before seeking leave to amend. Conversely, defendants should ensure that the court has granted relief from the prior judgment before an amendment is considered under Rule 15(a).

A. *BLOM Bank SAL v. Honickman*

The plaintiffs were victims and the families of victims of terrorist attacks carried out by Hamas. The plaintiffs sued BLOM Bank under the Anti-Terrorism Act, as amended by the Justice Against Sponsors of Terrorism Act. They alleged that BLOM aided and abetted Hamas's commission of terrorist attacks by providing financial services to alleged affiliates. BLOM Bank moved to dismiss the complaint under Rule 12(b)(6), arguing that the plaintiffs failed to plausibly allege the "general awareness" element. The district court agreed, dismissing the complaint with prejudice after the plaintiffs declined multiple opportunities to amend.

On appeal, the Second Circuit held that the district court had misinterpreted the general awareness element by imposing an unduly high foreseeability requirement. Nevertheless, even under the Second Circuit's less demanding standard, it affirmed the dismissal. The plaintiffs then returned to the district court, seeking relief from the judgment under Rule 60(b)(6) and leave to file an amended complaint, citing Rule 15(a)'s liberal amendment policy. The district court denied the motion, holding that the Second Circuit's clarification of the general awareness standard did not constitute "extraordinary circumstances" under Rule 60(b)(6) and noting that the plaintiffs had already declined several opportunities to amend their complaint. This time on appeal, the Second Circuit reversed the district court's decision, adopting a hybrid approach that required district courts to balance Rule 60(b)'s policy favoring finality against Rule 15(a)'s liberal amendment policy.

The Supreme Court granted certiorari and reversed. It held that relief under Rule 60(b)(6) requires "extraordinary circumstances" and that this standard does not become less demanding when a party seeks to reopen a case to amend a complaint. The Court emphasized that Rule 60(b)(6) and Rule 15(a) govern different stages of litigation and demand separate inquiries. Rule 60(b)(6) applies after a final judgment has been entered, while Rule 15(a) governs pretrial amendments. Thus, when a plaintiff seeks to amend a complaint post-dismissal, the plaintiff must first satisfy Rule 60(b) before the court may apply Rule 15(a)'s liberal amendment standard. The Court rejected the Second Circuit's balancing approach as diluting Rule 60 (b)(6)'s stringent standard and conflating the order of operations under the Federal Rules of Civil Procedure.

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[1] 145 S. Ct. 1612 (2025).

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## FROM THE JUDGES' CHAMBERS

### Meet the Interns

By: Paola Calleyro[1]

This past summer, the United States Bankruptcy Court for the Southern District of Florida proudly welcomed a talented and diverse group of judicial interns. These rising legal professionals, hailing from law schools across the country, brought a wide range of experiences, skills, and interests to chambers throughout the district. Below are some fun facts that highlight the unique personalities and backgrounds of this summer's interns.

In our West Palm Beach Division, Judge Mindy A. Mora was supported by Andrew Kiliment Mihaileanu and Paige-Tatum Hawthorne, both rising second-year students at the University of Miami School of Law. Andrew proudly shared that Romanian was his first language, while Paige brought a competitive spirit and discipline from her background in fencing.

At the Fort Lauderdale courthouse, Judge Scott M. Grossman welcomed Madeline Broderick, a rising second-year at Nova Southeastern University Shepard Broad College of Law, who had been practicing yoga for five years. Joining her were Briana Napoleon, a rising third-year student at Florida A&M University College of Law with a passion for collecting foreign currency, and Harry Paul, a rising second-year at Harvard Law School who had recently started guitar lessons. Judge Peter D. Russin was joined by Ethan Martin, also a rising second-year at Nova Southeastern University College of Law, who previously competed as an amateur boxer out of Dania Beach, Florida; and Lauren Ruiz, a rising second-year at Florida International University College of Law who cherishes her family's annual holiday domino tradition.

In the Miami Division, Judge Laurel M. Isicoff welcomed three rising second-year students from the University of Miami School of Law: Dimitri L. Politano, who enjoys cooking; Kameron Walton, a trilingual student fluent in English, Spanish, and Portuguese; and Andrea Cecilia López, a talented guitarist and musical composer. Judge Robert A. Mark was joined by Andrew Langer, a rising second-year student from the University of Miami School of Law and proud attendee of Florida's "Big Three" universities (FSU, UF, and UM); Alexa Claire Krochmal, a rising second-year at Cornell Law School who has loved soccer since childhood; and Fabian Zaruski, a rising second-year University of Miami Law student who proudly declared his dog the most pampered he had ever met.

Finally, in Judge-Lopez Castro's chambers, I had the pleasure of working alongside Sofia Chi, a rising second-year at Tulane University School of Law who once held a panda; Gabriela Loynaz, a rising second-year at the University of Miami School of Law and former UF undergrad who studied abroad in Italy; and two interns who split their summers between our chambers and others: Kusumitha Mallidi, a rising second-year at Georgetown Law who had lived in two countries and ten cities, and Vyom Singh, a junior at Bates College who becomes fiercely competitive at ping pong. I, Paola Calleyro, also a rising second-year at Miami Law who once danced in the Macy's Thanksgiving Day Parade, had the opportunity and privilege to reflect on our summer experience through this piece.

From amateur boxers and world travelers to musicians and multilingual scholars, this summer's interns reflect the remarkable breadth of talent and enthusiasm shaping the future of the legal profession. The United States Bankruptcy Court for the Southern District of Florida is proud to support their growth and remains grateful for the energy, curiosity, and dedication they brought to our chambers.

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[1] Paola Calleyro is a rising second-year student at the University of Miami School of Law. She interned with Judge Lopez-Castro in the Miami Division and authored this article.

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## FROM THE JUDGES' CHAMBERS

**MEET THE INTERNS** (continued from page 9)

From amateur boxers and world travelers to musicians and multilingual scholars, this summer's interns reflect the remarkable breadth of talent and enthusiasm shaping the future of the legal profession. The United States Bankruptcy Court for the Southern District of Florida is proud to support their growth and remains grateful for the energy, curiosity, and dedication they brought to our chambers.

**Order of Operations: How the Supreme Court's Decision in *BLOM Bank SAL v. Honickman*[1] Affects Bankruptcy Litigation** (continued from page 8)

B. Relevance to Bankruptcy

Chief Judge Erik P. Kimball's decision in *In re Rollaguard Security, LLC*[2] stands the test of time. There, the court dismissed the original complaints with prejudice, ruling that the complaints did not describe any transfers that could be avoided as fraudulent under the relevant statutes, and that the defendants were not transferees against whom the trustee could obtain judgment. The court also found that the trustee failed to allege sufficient facts to support claims of aiding and abetting conversion and negligence. The trustee did not seek permission to amend the complaints before the dismissal, leading to dismissal with prejudice.

After judgment was entered, the trustee moved for reconsideration under Rule 59(e), arguing that the court made clear errors of law. The court denied reconsideration on this ground. Alternatively, the trustee sought leave to file amended complaints, arguing that he received discovery from the defendants after the motions to dismiss were fully briefed. The court ordered the trustee to file the documents claimed as newly discovered evidence by a specified date and set a hearing to consider the trustee's request. In its analysis, however, the court emphasized that once judgment is entered, a party must first obtain relief from that judgment under Rules 59(e) or 60(b) before requesting leave to amend.

Although the Supreme Court's decision in *BLOM Bank* distinguished between Rule 59(e) and Rule 60(b) and limited its ruling to Rule 60(b), it is still highly relevant in adversary proceedings as many plaintiffs utilize Rule 60(b) to seek relief from a final judgment[3]. Bankruptcy litigators should remember that "prior to entry of judgment, Rule 15(a)(2) and applicable law provide a liberal standard for permitting amendments to complaints."[4] Rule 15(a)'s liberal amendment standard will not, however, apply post-dismissal unless and until the more demanding standard of Rule 60(b) is met.

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[1] 145 S. Ct. 1612 (2025).
[2] 576 B.R. 260 (Bankr. S.D. Fla. 2017), *rev'd* and *rem'd*, *Furr v. TD Bank, N.A.*, 587 B.R. 743 (S.D. Fla. 2018).
[3] Indeed, a motion under Rule 60(b) can be brought long after a motion under Rule 59(e). *Compare* Fed. R. Civ. P. 59(e), *with* Fed. R. Civ. P. 60(b)(6), as incorporated by Fed. R. Bankr. P. 9023 and 9024.
[4] *In re Rollaguard*, 576 B.R. at 266.

FROM THE JUDGES' CHAMBERS

## Service First: Getting Rule 7004 Right in Adversaries and Contested Matters

By: Peter D. Russin, Judge
Catherine Kretzschmar, Career Law Clerk
Clayton Klein, Law Clerk

Too often, relief is teed up for hearing, but the motion or complaint wasn't served the way Rule 7004 requires, and no proof of proper service is on the docket before the hearing. That puts the court in a bind. We check service first because before we can grant relief, we must be satisfied that due process is met. If service isn't right, the safest outcome is to reset the matter or deny the relief requested, which wastes time and money.

The standard is *Mullane v. Central Hanover Bank & Trust Co.* in which the Supreme Court stated that notice must be reasonably calculated, under all circumstances, to apprise interested parties and afford a chance to respond.[1] That's why courts have an independent duty to verify service. Justice rests on due process, and defective service threatens justice and the public's confidence in our judicial system.

### When Rule 7004 applies (and when other rules do)

Rule 7004 governs service of the summons and complaint in adversary proceedings, and pursuant to Rule 9014(b) service of motions that initiate contested matters against a party. In short, if you're seeking relief against someone by motion, assume 7004 applies unless a rule says otherwise.

Some bankruptcy-specific examples include motions seeking stay relief, cash-collateral, DIP financing, § 363 sales, § 365 assumption, dismissal or conversion, contempt, sanctions, and many claim-related matters that begin with a motion that must be served "in the manner for serving a summons and complaint." Claim objections have special service add-ons: when the United States (or one of its officers or agencies) or an insured depository institution is the claimant, service must also follow the corresponding 7004 provisions.

### What Rule 7004 requires, by target

For many defendants, 7004 allows first-class mail within the U.S. as an alternative to personal service; some categories demand more.

- Individuals (non-debtors): mail to the individual's dwelling or usual place of abode, or to the place where the individual regularly conducts a business or profession.

- Infants/incompetents: mail to the person authorized by state law to receive service for them, at that person's dwelling or business.

- Corporations/partnerships/LLCs/associations: mail addressed to an officer, a managing or general agent, or another agent authorized by appointment or by law. Since December 1, 2022,

[1] *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950).

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## FROM THE JUDGES' CHAMBERS

**Service First: Getting Rule 7004 Right in Adversaries and Contested Matters** (continued from page 11)

you may direct the mailing to the attention of the appropriate **position or title**. You do not have to name a specific individual so long as the envelope goes to the defendant's proper address and includes the necessary position or title.

• United States/U.S. agencies: mail to the civil-process clerk at the local U.S. Attorney, to the Attorney General in D.C., and (when you are challenging an order) to the relevant agency/ officer.

• States/municipalities: mail to the person or office state law designates (or the chief executive where none is designated).

• Debtor: if the debtor is represented, you must also serve the debtor's attorney.

• Insured depository institutions (banks/credit unions): certified mail addressed to an **officer** is mandatory unless (1) the institution has appeared by counsel (then serve counsel by first-class mail), (2) the court orders otherwise after proper notice, or (3) the institution has waived in writing by designating an officer to receive service. The 2022 "position/title is enough" rule applies here too.

Two timing and mechanics points are important to consider. First, a summons and complaint must be delivered or mailed **within 7 days** after the summons is issued; if not, you must obtain a new summons. This makes sense because many deadlines can pass if service is not accomplished promptly. Second, in bankruptcy, service by mail is complete upon mailing.

### The 2022 "title/position" fix (stop chasing names you don't need)

New Rule 7004(i) expressly states that for service under 7004(b)(3) (entities) and 7004(h) (insured depository institutions), the defendant's officer or agent need not be correctly named in the address—or even be named—if the envelope is addressed to the defendant's proper address and directed to the attention of the officer's or agent's position or title. In practice, "Attn: Chief Executive Officer," "Attn: Managing or General Agent," or similar is sufficient, provided the address and method are correct (e.g., certified mail for banks).

### Proof of service (file it early, file it clearly)

File a certificate/affidavit of service before the hearing that states who was served, what was served, when and how it was served (first-class vs. certified), the exact address used, and the attention line/title where required. Keep and, as appropriate, file the certified-mail receipt or tracking. And don't rely on the ECF notice alone. Electronic service under Rule 9036 does **not** apply to documents that must be served in accordance with Rule 7004.

(Continued on page 13)

## FROM THE JUDGES' CHAMBERS

**Service First: Getting Rule 7004 Right in Adversaries and Contested Matters** (continued from page 12)

### Where counsel most often goes wrong

- serving a corporation "generically" but omitting the required attention line to an officer/agent;
- using ordinary first-class mail for an insured depository institution;
- forgetting to serve the debtor's attorney when serving the debtor;
- failing to serve the U.S. Attorney and the Attorney General when a federal agency is involved;
- using a stale summons;
- sending to a bad or legacy address pulled from an old file;
- relying on NEF instead of Rule 7004 when a motion initiates a contested matter.

Each of these is preventable by checking the rule text and building a short pre-filing routine.

### A quick pre-hearing checklist

- identify who you're serving and the correct category in 7004;
- choose the required method (first-class vs. certified);
- address it to the correct place and, for entities, include an appropriate title/position;
- calendar the 7-day summons window;
- if serving the debtor, also serve debtor's counsel;
- e-file a complete proof of service well before the hearing.

Help the court help you by getting Rule 7004 right the first time. A few minutes up front pays off in efficiency, cost, and credibility. More importantly, it honors the due process promise that underwrites everything we do. Do that, and we'll do our part and move promptly to considering the relief you're asking us to grant.

**PRO BONO CORNER**


**BY: STEVEN S. NEWBURGH, ESQ.**
**(GUEST CONTRIBUTOR)**
**STANDING MEMBER**
**FLSB PRO BONO COMMITTEE**
**FORMER LAY CHAIR**

## *Chapter 13 Debtors and Access to Title 11 Relief*

*Bridging the Gap Between the "No Look Fee" and Low Bono Representation*

Chapter 13 debtors need legal representation well-prior to filing for relief under Title 11. What's at stake for the prospective debtor is so profoundly important. Consider this family of 4: 2 spouses and 2 kids, both in elementary school. Both parents work, but only one works full-time. Their mortgage is in default, but they have been remitting monthly partial payments. This has gone on for 3 years now, with the secured lender carrying the loan on its books and graciously delaying foreclosure proceedings. Without commenting on what rights, if any, may have accrued or been lost by reason of the 3-year, informal forbearance, a change in the lender's management resulted in the filing of foreclosure proceedings.

The borrowers were shocked to have been served foreclosure papers, especially when they thought they had an arrangement in place whereby the partial payments they were making would continue to satisfy the lender and prevent foreclosure proceedings until they were able to catch-up through a modification and/or with consideration of an orderly private sale to provide some ability for the family to plan ahead in case the lender won't come to terms with the borrowers.

Unfortunately, things change. Assignments happen, changes in management occur, and other incidents and factors come into play. Ultimately, the foreclosure remedy might be the only course of action available to the lender. While out-of-court forbearance agreements can sometimes be reached, they tend to do more harm than good by deepening insolvency rather than by gaining meaningful traction on a defaulted loan; That's something to think about when you, as bankruptcy counsel, are first consulted in such a situation. What is best for the debtors here? That obviously depends on the terms being offered and the effect it will have on the ability of a prospective debtor to propose a feasible Chapter 13 Plan. Counsel must carefully evaluate a prospective Chapter 13 debtor's prospects for maintaining a threshold net income given allowable expenses and exemptions.

You are presented with a huge responsibility when undertaking the representation of a Chapter 13 debtor. Not only must you navigate the 1300 series rules, et al, but you need to be thoroughly familiar with local practice and procedures, or you may get lost. This is why working with another local Chapter 13 lawyer is "required reading," so to speak. Most Chapter 13 practitioners in our District are happy to answer questions and provide help to young lawyers who may just be starting out in the bankruptcy arena.

So, when is Newburgh going to get to the point of all of this? The point is that Chapter 13 practitioners can do <u>so much good,</u> thanks to their knowledge and skill set; not only by assisting *Pro Bono* and *Low Bono* Chapter 13 debtors *or* creditors, but also by sharing the knowledge required to properly handle a debtor or creditor case or matter. [Caveat: Contested proceedings and Adversary proceedings in bankruptcy generally require experienced counsel who are familiar with the issues and the applicable law.]

(Continued on page 15)

**Chapter 13 Debtors and Access to Title 11 Relief** (continued from page 14)

When empathy and understanding are combined with knowledge and skills, the results are amazing. Imagine saving a family with 2 kids from the heartache and humiliation that accompanies a foreclosure. What does that family do when their home is lost to a lender? Unfortunately, the answer to that difficult question is mostly beyond the jurisdiction and ability of our bankruptcy bar, as defined by the Code. However, our job is to prevent that eventuality. Chapter 13 practitioners are in the best position to offer a discounted rate to their clients ("*Low Bono"*). Hopefully, Chapter 13 practitioners in our District will take a close look at the delta between the district's "no look fee", and, solely for argument's sake, a 50% discount of that maximum allowable fee (not including mortgage modification program work). The resulting delta might dig into the profit otherwise obtainable, but the point here is that while the *Low Bono* discount reduces your profit, at least it provides you with payment for a substantial portion of the actual work required, assuming a reasonable attorney's fee. Certain of our district's Chapter 13 practitioners are proactively involved in fostering and implementing *Pro Bono* programs, but there are many more practitioners out there that may be able to provide prospective debtors with discounted rates (that can be paid over the life of a Plan). I personally believe that providing *low-bono* legal services is just as important as providing *Pro Bono* services.

Accordingly, there isn't a "Gap" that needs to be bridged between a Chapter 13 "no look fee" and whatever reduced rate the Chapter 13 practitioner agrees to accept. It is the Chapter 13 practitioner who "bridges the gap" by fitting prospective debtors into a fee arrangement that still provides compensation for the attorney who is prepared to help save a family's home. It is at least in the "Spirit of *Low Bono"* where the "no-look fee" is spread over the life of a Chapter 13 Plan, as the client can still proceed with a Chapter 13, if indicated. It is obviously preferable to offer the *Low Bono* rate, up front, thereby avoiding any potential for future issues relating to fees that are spread over the life of a Chapter 13 Plan.

With the implementation of our new Help Desk, in conjunction with our monthly Pro Se Clinics, our District continues to aggressively assist *Pro Se* litigants by providing an accessible webpage for everything "*Pro Bono"*: www.flsb.uscourts.gov. Once you land on the main page for the court, you will see tabs along the top of the web page. Select "Don't have a Lawyer?" and you will land on our main *Pro Bono* page. The resources on the court's website are expansive and all-encompassing; from video presentations illustrating what a typical 341 Meeting of Creditors might look like, to resources to direct you, a client, family member or friend questions relating to the entire bankruptcy process. Notably, our online Helpdesk can be accessed from the court's *Pro Bono* web page, along with a schedule for all of our 2025 *Pro Se Clinics [Zoom Only at this time]*.

In a recent edition of the Courthouse Beacon, I provided some historical references to *Pro Bono* and examples of the early English devotion to the cause. The energy and spirit of the young John Adams should remind us of what we can accomplish when we offer our time to others, *gratis*.

We should each continue to be conscious of the needs of our community and of our Southern District of Florida Bankruptcy Court. Do the best you can to assist in *Pro Bono* and *Low Bono* representation in our District. There are many opportunities for you to help. Pay attention to the Court's website and, in particular, the section tabbed on the opening page as "Don't Have a Lawyer?" You will find links to many opportunities where you can really make a difference.

PACER Public Access to Court Electronic Records

# NEW PACER MFA & PASSWORD REQUIREMENTS

## Multifactor Authentication (MFA)

PACER and CM/ECF account users with filing and all other types of CM/ECF-level access are required to enroll in MFA and are encouraged to do so as soon as possible. MFA enrollment is optional for users with PACER-only access, but it is strongly recommended.

Beginning in August, users with CM/ECF-level access who did not voluntarily enroll will be randomly selected to enroll. By the end of 2025, everyone with CM/ECF-level access **MUST** use MFA when logging in.

Updated documentation and learning aids are available on PACER's webpage.

**NOTE:** If using third-party software for filing, users should ensure their software supports MFA before enrolling, to avoid disruption to their business processes.

## New Password Requirements

As part of an ongoing effort to secure the PACER service and CM/ECF systems, the Administrative Office of the U.S. Courts began enforcing new password standards.

New passwords must:
- be 14–45 characters in length.
- contain at least one lowercase and one uppercase letter, and one special character.
- not contain any part of a first name, last name, username, or email address.

## New Password Requirements (Cont'd)

Passwords must also be updated every 180 days. These standards will be enforced on all existing PACER-only (search/view only) accounts on August 25, 2025. **Users should consider updating their passwords as soon as possible**.

PACER-only users will be prompted upon login to update their password if it has not been updated as of May 11. Users can skip this process three times before their account is disabled.

To align with the enforcement of MFA requirements, users with filing and other CM/ECF-level access must update their password on the date they are randomly selected to enroll in MFA. However, these users can update their passwords any time.

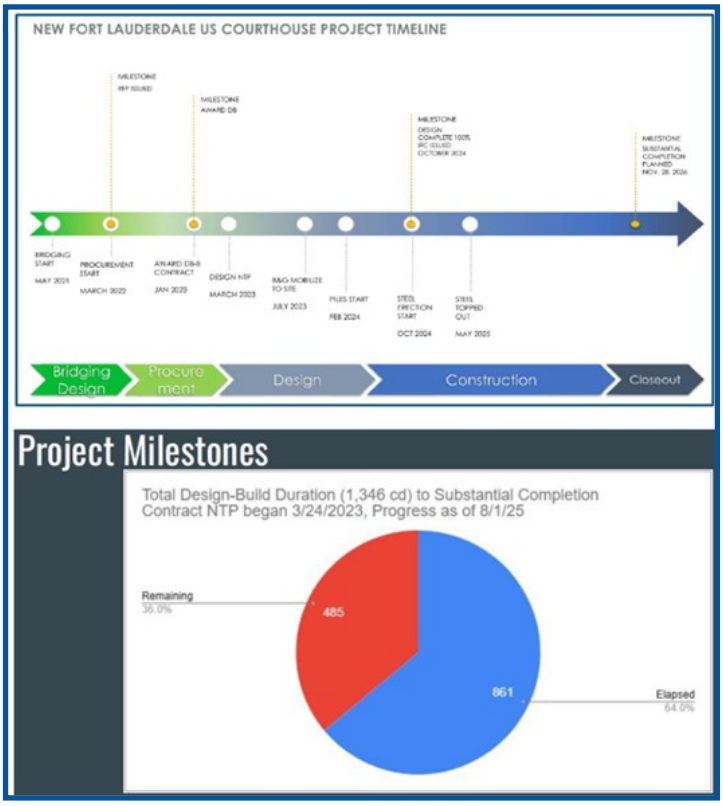
**NOTE:** If you update your password before enrolling in MFA, you will NOT be required to update it again when you are prompted to enroll in MFA. If using third-party software for filing, check that updating your password does not require additional action on your part to avoid issues with the software.

If you have any questions, **PLEASE DO NOT** call the Court, but instead contact the PACER Service Center at pacer@psc.uscourts.gov or (800) 676-6856.

## New Fort Lauderdale Courthouse Construction Project Update

The project team continues to make excellent progress towards the completion of the new 11-story courthouse located at 1000 S.E. 3rd Avenue in Fort Lauderdale. The courthouse will include twelve courtrooms and seventeen judges' chambers and will support workspace for the 11th Circuit Court of Appeals, U.S. District Court, U.S. Bankruptcy Court, and several other federal agencies, including the U.S. Marshals Service, the U.S. Attorney's Office, and U.S. Probation and Pretrial Services. Substantial completion is expected in November 2026, with a phased-in occupancy beginning in January 2027. Critical infrastructure is advancing quickly, and the precast concrete façade and window installation is complete with the exception of "leave outs" necessary for crane supports and the buck hoist. The next several months will consist of metal stud framing, drywall buildout, millwork mobilization, and FPL to bring in permanent power to the courthouse. We remain hopeful that the City of Fort Lauderdale will be awarding the construction contract for the parking garage in the coming weeks.

[Image of site on September 23, 2025]



## FILING FEES: INFORMATION ON PAYMENTS, LOCKOUTS, DUPLICATE FEES, REFUNDS, AND MORE

By: Cameron Cradic, Chief Deputy Clerk

CM/ECF, the court's electronic case management system, has docketing events programmed with specific information to help manage the court's caseload and charge filing fees. The system recognizes the case chapter, docket event selection, and amount due. Further, instructional prompts are built into many events, conveying critical information such as whether an exception to the fee may be applicable.

### WHAT TO KNOW

- **All fees must be paid in CM/ECF via a Pay.gov pop-up window.**
- **Filing fees are immediately earned upon entry of a fee-charging document.**
- **Non-payment may result in a lockout, a temporary suspension of a user's e-filing privileges until incurred fees are paid.**

### QUESTIONS AND ANSWERS

**I did not see a Pay.gov pop-up window. Is there a way to recreate it on my own?**

Yes! As the final step in the e-filing process, users are launched into a Pay.gov payment portal. To recreate a Pay.gov window, *always* click **Utilities > Internet Payments Due.** Unpaid fees will be displayed; follow the prompts to pay.

**Will I be notified if my account is locked out? How do I reinstate my access?**

If a user is locked out due to non-payment, the CM/ECF system automatically sends an email with a hyperlink to pay the following morning. Paying the incurred charge reinstates access to CM/ECF.

**Is it possible to incur a duplicate charge?**

Yes. A duplicate charge *will* be incurred if a fee-charging event was selected AND a user improperly selects **Other > "filing fee due – (various events)."** Importantly, this entry creates a *second* charge. Choose a "filing fee due" event only when explicitly instructed by the clerk's office. An instructional prompt appears in large, bold, red and blue text that repeats this vivid instruction.

**Can I get a refund of duplicate fees paid in error?**

File a Motion for Refund if you want a refund of a duplicate payment. Know that refunds are never granted based solely upon an adverse ruling.

**Can the clerk's office force me to pay a filing fee?**

Yes. If an incorrect event selection results in a fee not having been charged, or if an original fee-based motion was denied and the movant refiles a substantially similar request, the clerk's office may invoke a filing fee. Non-payment will result in a lockout.

**What if conditions exist to avoid paying a fee, such as filing a Motion to Reopen Case?**

There is little to no discretion regarding the payment of statutory fees. In rare instances, conditions may exist for a waiver or deferral. The filer must include a clear and authoritative reference in support of such a request. By default, filing fees are always required.

## Oh No, Not Another NAFD! What can I do? (Part 1)

By: Jacqueline Antillon

Courtroom Deputy to the Honorable Robert A. Mark

No, not another one, oh why me? But I was so careful, what can I do to avoid these pesty "Notices to Filer of Apparent Filing Deficiency" (also known as NAFDs)? Well, no worries, we are here to help. We understand mistakes are unavoidable, but we can streamline the refiling process and save you and the court time in issuing these unwanted NAFDs. Nobody likes receiving them, and we understand that everybody makes mistakes, and we also realize that mistakes are part of the learning process. We are here to help!

Here are some tips and tricks to avoid receiving a lovely NAFD. Should you receive one, please do not disregard. Some NAFDs are time sensitive, impose deadlines, require filing fees, and require immediate follow-up. If you doubt filing protocols, please consult the court's website for directives. There you will find a plethora of information. If you still cannot find what you are looking for, please get in touch with the clerk's office for assistance. Common mistakes can be avoided. Not only does reaching out make life easier for chambers and the clerk's office, but doing so can also make life easier on you and your staff! (visit www.flsb.uscourts.gov)

**Here are some filing tips, and mistakes commonly seen by chambers and clerk's office staff.**

**Multi-Part Motions:** When filing a motion with more than one type of relief requested, please use all applicable events in the order listed within your motion. CM/ECF allows you to search key words in the "Search" button in the ribbon bar. Click Search, type in key word, and if there is an applicable event, results will appear that guide you to the filing category and docket event. If there's no dedicated event for your motion, you may use a generic event such as Miscellaneous Motion. However, know that a generic event is a last resort.

The search feature can be used when e-filing any motion, response, objection, or other document. It is important to use the correct event(s). Using an incorrect event(s) may affect case status, case disposition, statistical information (transmitted to the Administrative Office of the U.S. Courts), prejudice our court funding allocations, risk exposing personal identifiers such as a social security number, and impact sealed documents and other non-public entries.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**Oh No, Not Another NAFD! What can I do? (Part 1)** (continued from page 19)

**Orders**. Refer to the "Clerk's Guidelines for Preparing, Submitting, and Serving Orders." The first page of the order must have 4" of blank space at the top of page one to allow room for the judge's electronic signature. After the initial page, all other margins (top, sides, and bottom) should be one inch all around. Most fonts are generally acceptable; Times New Roman and Century Schoolbook are preferred. Orders must be uploaded in PDF format, and they should not be "printed and scanned" before being uploaded. That is not a native PDF format and may be rejected by chambers. (https://www.flsb.uscourts.gov/guidelines-preparing-submitting-and-serving-orders)

**Caption:** The order must contain a descriptive caption that identifies the court, parties, case number, case type, and bankruptcy chapter. The title should be clear; it should reference the motion and clarify the motion's disposition. For example: "Order Granting Motion for Stay Relief and Denying Motion to Dismiss." Please note that a failure to comply may result in chambers sending back an order for correction and delaying the order entry process.

**Dos and Don'ts** – ***Do*** underline the order title and use all CAPITALS and single spacing. ***Do*** address agreed orders in the title. If the order cancels a hearing or reschedules a hearing, ***do*** say so. ***Do*** double-space the body of the order. When applicable, ***do*** start the first sentence of the order with "This matter came before the Court upon (reference title of motion) and (if a hearing was held, insert the date and time)." ***Do*** identify which party filed the motion. ***Do*** include a footnote describing the nature of any amended order. ***Do*** include three hashtags (###) to indicate the end of the order, and immediately following, ***do*** add the attorney's name, address, phone number, and email.

**Chapter 13** – Regarding consent calendar orders, please include in the introductory paragraph, "This came before the Court on the Chapter 13 Consent Calendar" and NOT reflect it was heard by the Court. Refer to local rule – 5005-1(G)(1).

**Ex-Parte Matters** – First, make sure your motion can be filed ex-parte. If permitted, upload your order immediately after e-filing the motion, and please do not wait for chambers to send you an email requesting such. Your order should identify the applicable subsection - refer to Local Rule 9013-1(C).

**Dos and Don'ts** – ***Don't*** include ECF numbers in the title, nor include the word "proposed." ***Don't*** submit proposed orders prematurely or be untimely, either (the prevailing party must submit an order within seven days after the hearing). ***Don't*** wait until after a scheduled hearing to submit an agreed order cancelling that hearing. Unless it's an emergency, ***don't*** contact chambers about the signed status of an order (you may contact chambers two weeks after the hearing was held to inquire about your proposed order). ***Don't*** miss an opportunity to share the court's order guidelines with your firm's support staff (link is above).

**Self-Calendaring** - The court has set up parameters and will provide at least 14 advance dates to self-calendar your motion. It is the responsibility of the filer to determine how far forward the matter needs to be calendared. Ask yourself before filing if the motion requires a 14-, 21-, or 30-day mailing requirement. Every judge is different, and not all judges allow self-calendaring in Chapter 11s or Adversary Proceedings. However, if you can self-calendar, we highly encourage you to do so. Alternatively, manually issuing a Notice

(Continued on page 21)

**Oh No, Not Another NAFD! What can I do? (Part 1)** (continued from page 19)

of Hearing may take up to 48 hours. Do not self-calendar the following motions: emergency, expedited, reconsider, summary judgment, continue, or motions that contain the negative notice or ex parte provision. If filing an emergency or expedited motion, please get in touch with the Courtroom Deputy by phone and/or email. The Courtroom Deputy is often in court and cannot immediately answer the phone. You may get a faster response by using email. Be aware that just because you filed an ex parte or negative notice motion, it does not preclude the court from setting it for a hearing. If you file a fee-based motion and intend to self-calendar the matter, proceed to the self-calendar portion of the e-filing event. **DO NOT** pay the filing fee immediately after the motion is filed, as this will cancel the self-calendaring module. Once the Notice of Hearing has been issued/calendared, the filing fee pop-up window will appear to pay any outstanding fee.

Attorneys, please share this article with your paralegals or administrative staff. Let them know that we are here to help. Working together, we can reduce careless mistakes, enhance productivity and efficiency, and achieve greater success.

Stay tuned. Part 2 of this article will be in our next newsletter and will include a review of popular e-filing mistakes. Remember, we are always happy to help!

**Federal Rules and Forms Published for Public Comment**

The Judicial Conference Committee on Rules of Practice and Procedures approved publication for public comment the following proposed amendments to existing rules and forms, as well as one new rule:

- Appellate Rule 15;
- Bankruptcy Rule 2002, and Official Forms 101 and 106C;
- Civil Rules 7.1, 26, 41, 45, and 81;
- Criminal Rule 17; and
- Evidence Rule 609 and new Rule 707.

Proposals and supporting materials are posted on the Judiciary's website at: https://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment.

The Public comment period is now open and closes on **February 16, 2026**.

## WHAT LAWYERS SHOULD KNOW ABOUT COURTS AND AI

By: Tony Diaz, IT Manager

Federal judges are beginning to use artificial intelligence (AI) tools in their daily work—and this shift has implications for the lawyers who appear before them. While AI will never replace judicial decision-making, it is already making an impact on how cases are researched, managed, and drafted at the federal level.

### Faster, Smarter Legal Research

Many judges and clerks are relying on AI-powered legal research platforms that can analyze context rather than just keywords. This means when you cite cases, courts may be verifying your work with tools that quickly surface additional authority. The result: judges are equipped to fact-check, cross-reference, and challenge attorney arguments more efficiently.

### Opinion Drafting Support

Some courts are exploring AI tools to assist with research and reviewing judicial opinions. These systems may help flag inconsistencies, confirm authoritative references, or provide a new perspective before an order is finalized. Such tools may lead to more consistent and thoroughly reviewed decisions.

### Case Management Insights

Some courts are exploring AI analytics to help manage dockets and resource allocation. These tools don't dictate outcomes but can add efficiencies and shape how judges prioritize time and effort across their calendars. For lawyers, this may translate into quicker rulings in high-priority matters—or closer scrutiny in areas where procedural trends emerge.

### Ethics and Boundaries

Judges are approaching AI with caution. Confidentiality, fairness, and independence remain top priorities. Attorneys should expect that AI will be used as an assistant—not a decision-maker. But this also means lawyers need to understand the technology well enough to recognize its strengths and limitations.

### Why It Matters for Lawyers

Just as electronic filing and digital case law research became standard, AI is on track to become part of daily court operations. Staying current with these tools will not only help you in practice but will also align you with how judges are increasingly managing their work.

## Protecting Unclaimed Funds: Combating Fraud Through Court Safeguards

By Andrew Abreu, Administrative Services Manager

Unclaimed funds in bankruptcy cases have increasingly become a target for organized fraud. Between 2022 and 2024, a Maryland man attempted to defraud twenty-eight federal bankruptcy courts—including several in Florida—of more than $1.8 million. Using publicly available information from PACER, he identified cases with unclaimed funds and submitted falsified applications containing stolen identities, forged signatures, and other fraudulent documentation. The scheme was uncovered through prompt detection and close cooperation among courts, beginning with a referral from the U.S. Bankruptcy Court for the District of Puerto Rico. In July 2025, the defendant was sentenced to 90 months in federal prison.

The potential target is significant. In 2018, the Judicial Conference reported approximately $299 million in bankruptcy-related unclaimed funds nationwide. Current estimates suggest the total now exceeds half a billion dollars. With both large sums at stake and case data readily available to the public, strong safeguards are essential.

In response to these risks, the Southern District of Florida has implemented strict procedures to protect unclaimed funds and ensure they are disbursed only to legitimate claimants. To understand these safeguards, it is important to first know how unclaimed funds come into the court's possession. These funds are deposited with the court by trustees pursuant to 11 U.S.C. § 347 and Bankruptcy Rule 3011. Any release must comply with our district's Clerk's Instructions for Withdrawals from Unclaimed Funds. Applicants are required to file an application, serve notice on the U.S. Attorney's Office, and submit documented proof of their right to payment. Only unaltered official forms (LF-27 Application, LF-28 Affidavit, LF-29 Order) and a completed AO213P vendor form are accepted. Altered or incomplete submissions are immediately rejected.

The Administrative Services team—which includes the court's financial operations unit—works closely with chambers and the U.S. Attorney's Office to review each application. This process includes verifying identification, cross-checking documentation, and confirming that any successor claims are supported by a valid chain of ownership. For claims submitted by funds locator services or attorneys, additional notarization and proof of authority are required.

Claimants can begin by searching the U.S. Bankruptcy Court's Unclaimed Funds Locator or reviewing public court records to confirm whether funds exist. Given the rise in fraudulent solicitations, any unexpected offer to "recover" funds should be verified directly with the court before taking action.

Preventing fraud is a coordinated, nationwide effort. Case administrators flag suspicious filings, Administrative Services conducts detailed financial and procedural reviews, and chambers and judges ensure legal compliance before any release is approved. These combined safeguards protect the integrity of the process and help ensure that unclaimed funds are returned only to their rightful owners—making cases like the Maryland scheme the rare exception rather than the rule.

## Oops! Duplicate Pay.gov Payment? Follow These Steps
## Handling Duplicate Payments in Pay.gov for e-filers (Payments Not Reflected in CM/ECF)

By: Tonya Armstrong, Financial Administrator

Sometimes e-filers may notice a Pay.gov charge that doesn't appear in CM/ECF. This usually happens because of an accidental duplicate submission or other processing errors.

**Identifying Unlinked Payments:** If a Pay.gov payment isn't linked to a CM/ECF case, the Court's Financial Team will contact the remitter to gather information and manually apply the payment to the correct case. Most often, these charges appear unlinked because they are duplicates—meaning the same amount has already been posted to the case on the same date. Your Pay.gov payment history can help confirm whether this is the case.

**Required Documentation:** To resolve these unlinked charges, the Court's Financial Team requires a written statement (via email) from the e-filer. This documentation helps ensure accurate processing and provides a record for audit purposes.

**Resolution Process Based on Payment Method**

- **Debit Card Payments:** If the duplicate charge was processed using a debit card, the court will reverse the charge directly in Pay.gov. This is preferred method of payment and typically the fastest method of resolution.

- **ACH or Bank Account Payments:** If the duplicate charge was processed using ACH or other bank account information, the remitter must complete an AO-213P form. Refunds are then issued via direct deposit, which may take up to seven business days.

**Quick reminders for Avoiding Duplicate or Unlinked Charges**

- **Monitor Pay.gov Payment History:** Regularly review your Pay.gov transactions to ensure all payments are accounted for and linked to the correct case.

- **Save payment confirmation emails:** The Pay.gov confirmation email serves as proof of payment and should be kept for your records**.**

- **Wait for Confirmation:** Avoid resubmitting while awaiting a confirmation email or on-screen confirmation; a payment may take time to process.

- **Web Browser:** Please refrain from using the back or refresh buttons, as this can cause the web browser to submit duplicate requests, resulting in multiple charges.

- **Report Issues Promptly:** If a charge appears in Pay.gov but not in CM/ECF, contact the Court's Financial Team (by phone or email) immediately **prior to** resubmission.

By following these steps, e-filers can help ensure that duplicate payments are resolved quickly, refunds are processed correctly, and the court's financial records remain accurate.

## Help Desk Corner

By: Lorraine Adam, Senior Case Administrator

The help desk corner will highlight questions the clerk's office routinely receives by telephone or through the court's website at https://www.flsb.uscourts.gov/contact-us. Whether you are contacting the Miami, Fort Lauderdale, or West Palm Beach division, the clerk's office staff is readily available to assist you during court hours of 8:30 a.m. to 4:00 p.m.

| | |
|---|---|
| Miami: | 305-714-1800 |
| Fort Lauderdale: | 954-769-5700 |
| West Palm Beach: | 561-514-4100 |

***My attorney filed my bankruptcy case for me and told me I can sign up for electronic noticing on my own. How do I go about doing that?***

You will need to fill out and sign a local form titled "Debtor's Request to Receive Notices Electronically Under DeBN Program," which is easily accessible on our court website. You may also request the form in person at any of our divisional offices. You will need to provide a copy of your valid government-issued photo ID. Once that form and your ID have been filed, the court will activate your DeBN account.

Once activation is complete, you will receive a confirmation email from the Bankruptcy Noticing Center with your account information. From this point on, all future notices and orders **entered by the court** will be delivered to you via email if your name and address in the bankruptcy case match your name and address in your DeBN account and there are no email delivery failures.

Keep in mind, this form authorizes only notices and orders entered by the court to be emailed to you. Your trustee and creditors will continue to serve you by mail.

To better understand the bankruptcy process, access our court website at: www.flsb.uscourts.gov. Under the "Don't Have a Lawyer" tab, there is a section called Creditor Resources with links to frequently asked questions. You may also watch a Bankruptcy Basics video, which provides an example of a Meeting of Creditors setting. The video is not long and is full of helpful information.

## FLORIDA SOUTHERN BANKRUPTCY MORTGAGE MODIFICATION MEDIATION STATISTICS

(From April 1, 2013 through August 31, 2025)

| | MIA | FTL | WPB | TOTAL |
|---|---|---|---|---|
| MMM Motion (Attorney Rep.) | 8643 | 5797 | 3407 | 17847 |
| MMM Motion (*Pro Se*) | 108 | 53 | 32 | 193 |
| Total Motions Filed | 8751 | 5850 | 3439 | 18040 |
| Order Granting MMM Motion | 7706 | 5157 | 2944 | 15807 |
| Final Report of Mediator | 6497 | 4118 | 2278 | 12893 |
| Mediation Agreement Reached | 2744 | 1893 | 1056 | 5693 |

## MMM MOTIONS FILED BY MONTH (Attorney Rep. & *Pro Se*)

| MIAMI | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2013 | | | | 18 | 82 | 106 | 137 | 130 | 173 | 181 | 169 | 141 | 1137 |
| 2014 | 171 | 157 | 184 | 179 | 170 | 164 | 156 | 126 | 198 | 146 | 123 | 138 | 1912 |
| 2015 | 161 | 168 | 189 | 183 | 142 | 164 | 127 | 122 | 127 | 108 | 93 | 93 | 1677 |
| 2016 | 111 | 124 | 79 | 102 | 119 | 110 | 60 | 92 | 99 | 84 | 78 | 74 | 1132 |
| 2017 | 59 | 49 | 59 | 52 | 59 | 56 | 54 | 44 | 48 | 57 | 63 | 39 | 639 |
| 2018 | 40 | 48 | 54 | 64 | 57 | 44 | 59 | 50 | 44 | 52 | 40 | 39 | 591 |
| 2019 | 57 | 39 | 48 | 41 | 48 | 35 | 31 | 42 | 45 | 45 | 35 | 23 | 489 |
| 2020 | 35 | 38 | 24 | 20 | 31 | 19 | 8 | 14 | 5 | 15 | 9 | 18 | 236 |
| 2021 | 18 | 19 | 15 | 22 | 18 | 18 | 14 | 16 | 21 | 16 | 11 | 29 | 217 |
| 2022 | 31 | 13 | 22 | 24 | 27 | 32 | 20 | 23 | 24 | 17 | 12 | 29 | 274 |
| 2023 | 25 | 20 | 32 | 23 | 20 | 26 | 16 | 12 | 20 | 21 | 8 | 9 | 232 |
| 2024 | 12 | 21 | 11 | 10 | 10 | 15 | 7 | 13 | 16 | 10 | 13 | 7 | 145 |
| 2025 | 13 | 11 | 8 | 16 | 12 | 6 | 10 | 9 | | | | | 85 |
| | | | | | | | | | | | | TOTAL = | 8766 |

| FT. LAUDERDALE | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2013 | | | | 49 | 92 | 98 | 116 | 144 | 189 | 118 | 99 | 77 | 982 |
| 2014 | 91 | 82 | 69 | 108 | 89 | 89 | 107 | 61 | 99 | 100 | 121 | 95 | 1111 |
| 2015 | 96 | 101 | 109 | 89 | 94 | 94 | 82 | 74 | 93 | 89 | 91 | 79 | 1091 |
| 2016 | 86 | 81 | 58 | 61 | 68 | 63 | 46 | 75 | 59 | 43 | 54 | 50 | 744 |
| 2017 | 38 | 25 | 38 | 26 | 47 | 42 | 40 | 34 | 33 | 39 | 29 | 26 | 417 |
| 2018 | 20 | 21 | 36 | 24 | 33 | 43 | 47 | 46 | 28 | 33 | 26 | 21 | 378 |
| 2019 | 34 | 20 | 31 | 24 | 28 | 20 | 20 | 18 | 25 | 19 | 26 | 19 | 284 |
| 2020 | 26 | 13 | 25 | 19 | 22 | 17 | 8 | 12 | 5 | 5 | 6 | 8 | 166 |
| 2021 | 9 | 21 | 13 | 12 | 8 | 5 | 15 | 9 | 9 | 16 | 15 | 20 | 152 |
| 2022 | 16 | 12 | 15 | 17 | 22 | 19 | 21 | 16 | 15 | 7 | 10 | 11 | 181 |
| 2023 | 12 | 7 | 20 | 18 | 20 | 6 | 8 | 8 | 10 | 10 | 18 | 16 | 153 |
| 2024 | 21 | 9 | 9 | 7 | 7 | 17 | 8 | 10 | 10 | 14 | 9 | 5 | 126 |
| 2025 | 10 | 6 | 7 | 12 | 16 | 13 | 9 | 10 | | | | | 83 |
| | | | | | | | | | | | | TOTAL = | 5868 |

| WEST PALM BEACH | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2013 | | | | 9 | 35 | 56 | 91 | 83 | 147 | 63 | 68 | 67 | 619 |
| 2014 | 47 | 43 | 64 | 54 | 66 | 74 | 54 | 43 | 83 | 52 | 49 | 44 | 673 |
| 2015 | 51 | 57 | 52 | 41 | 47 | 54 | 48 | 39 | 35 | 35 | 33 | 36 | 528 |
| 2016 | 46 | 33 | 33 | 32 | 36 | 29 | 29 | 32 | 18 | 13 | 16 | 25 | 342 |
| 2017 | 22 | 18 | 21 | 22 | 20 | 10 | 23 | 27 | 18 | 24 | 17 | 13 | 235 |
| 2018 | 19 | 8 | 10 | 15 | 21 | 20 | 26 | 18 | 24 | 25 | 13 | 12 | 211 |
| 2019 | 22 | 20 | 13 | 28 | 14 | 20 | 27 | 19 | 10 | 31 | 18 | 10 | 232 |
| 2020 | 16 | 14 | 18 | 13 | 10 | 10 | 15 | 5 | 11 | 11 | 7 | 13 | 143 |
| 2021 | 4 | 8 | 6 | 4 | 7 | 6 | 7 | 10 | 9 | 5 | 19 | 10 | 95 |
| 2022 | 1 | 0 | 12 | 5 | 6 | 16 | 8 | 8 | 12 | 6 | 7 | 5 | 86 |
| 2023 | 14 | 7 | 12 | 6 | 8 | 11 | 6 | 4 | 4 | 10 | 4 | 8 | 94 |
| 2024 | 7 | 9 | 4 | 10 | 14 | 6 | 9 | 7 | 14 | 7 | 10 | 6 | 103 |
| 2025 | 13 | 4 | 6 | 10 | 11 | 6 | 9 | 5 | | | | | 64 |
| | | | | | | | | | | | | TOTAL = | 3425 |

## COURT MISSION STATEMENT

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*- 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 "COURTHOUSE BEACON NEWS" PUBLICATION STAFF

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