



# BANKRUPTCY BUZZ

LOCAL NEWS AND INFORMATION

[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

UNITED STATES  
BANKRUPTCY COURT  
SOUTHERN DISTRICT OF  
FLORIDA

SEPTEMBER 2010

## LOCAL RULES ADVISORY COMMITTEE ESTABLISHED

On August 27, 2010, Chief Judge Paul G. Hyman signed Administrative Order 10-4, "Appointment of Advisory Committee for the Study of the Local Rules of Practice." A copy of this Order, which lists all committee members, is posted on the court website, [www.flsb.uscourts.gov](http://www.flsb.uscourts.gov), under the tab "Administrative Orders", and copies are also available at all Clerk's Office locations.

Judge Erik P. Kimball will serve as Chairman of the Committee. Other members include Judge Laurel M. Isicoff, representatives from the clerk's office, the U.S. Trustee's Office and several attorneys who appear in cases before this court.

For the purpose of meetings and issue discussion, the Committee has been divided into two subcommittees, business and consumer, however, some issues will be considered together by both committees.

Prior local rules committees in this court were appointed on an as needed basis, however, Judge Kimball stated that he feels it would be good practice to appoint a bi-annual committee in order to keep abreast of the changes in the federal statutes and rules, as well as address local issues, and amend the local rules accordingly.



Judge Erik P. Kimball Chairs the Local Rules Advisory Committee

Amendments proposed by the Committee will be reviewed by the court.

Those proposed amendments which the court may consider for adoption will be posted to the public with an opportunity for comment.

After the court considers public comments and makes any necessary further amendments, the final amended rules will be adopted with a stated effective date.

(continued on Page 2— see "Local Rules Advisory Committee")

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### Bankruptcy Cases Filed From 1/1/10 to 8/31/10:

**Total Filed: 26,340**

- Chapter 7 : 19,264
- Chapter 9 : 0
- Chapter 11 : 291
- Chapter 12 : 4
- Chapter 13 : 6,778
- Chapter 15 : 3

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



## NEW FREE PRE-FILING CONSUMER CREDIT COUNSELING SERVICE AVAILABLE ONLINE

A free online service is now available that provides the credit counseling course (and certificate of completion) that is required to be taken by individual debtors prior to filing a voluntary petition. This course, offered by [ConsumerBankruptcyCounseling.info](http://ConsumerBankruptcyCounseling.info) as a public service, has received authorization from the Executive Office for the United States Trustee, United States Department of Justice, to service all districts except for the District of Alabama and the District of North Carolina. The website for this provider is:

<http://www.consumerbankruptcycounseling.info/>

To view a list of all approved credit counseling providers in this district, visit the United States Trustee website at the following link:

[http://www.justice.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](http://www.justice.gov/ust/eo/bapcpa/ccde/cc_approved.htm)

Prior to choosing any provider, verify that it is still on the approved list and that it can provide the service that permits a debtor to timely comply with pre-filing credit counseling requirements.

~Debbie Lewis



## BNC CHANGES PROCEDURE FOR PROCESSING UNDELIVERABLE MAIL

The Bankruptcy Noticing Center (BNC) is the entity contracted by the Administrative Office of the U.S. Courts (AO) to provide service of notices on behalf of U.S. Bankruptcy Courts. These notices include the notices of commencement of case, discharge orders and dismissal orders.

The AO has authorized the BNC to implement a new process, which is in effect now, for handling mail returned as "undeliverable" by the United States Postal Service (USPS) after being mailed using either the address provided by a debtor on its creditor mailing list, or a creditor provided different address.

Mail is deemed "undeliverable" by the USPS if the address is incomplete, the addressee has moved to a foreign address or moved and left no forwarding address, the post office box is closed or a forwarding order has expired. Where a forwarding address has been provided, the USPS will forward mail only for a limited time.

Under the new process, the BNC will no longer print and mail notices to undeliverable addresses. Instead, a "Bypass Notification" will be mailed by the BNC to the debtor or debtor's attorney stating that the service of that notice was bypassed. Bypass notifica-

tions will: (1) include a copy of the notice that the BNC did not mail to the undeliverable address; (2) identify the creditor and the undeliverable address; (3) instruct the debtor to immediately mail the undelivered notice to the creditor; (4) inform the debtor that the BNC will not mail future notices to the undeliverable address; and (5) include space on the notification for the debtor to indicate a creditor's corrected address.

In this court, a signed and dated BNC bypass notification form may be filed with the court to provide updated addresses in lieu of submitting the Local Form "Debtor's Notice of Compliance with Requirements for Amending Creditor Information". If filing via CM/ECF, use event "Notice of Change of Address (NonAttorney)" which is found under the notices category.

The BNC will continue to identify undeliverable addresses for creditors on each BNC Certificate of Notice under the category "Bypassed." The BNC will also include the reason why a creditor's address was bypassed and state that the debtor or debtor's attorney was notified that the address was undeliverable.

**Please note :** The BNC will continue

to mail notices to undeliverable addresses under the following

conditions: (1) the address is for a debtor; or (2) the address is for a creditor who, pursuant to 11 U.S.C.

§ 342(f), has filed a preferred address with the BNC for all cases or who, pursuant to 11 U.S.C. § 342(e), has filed a preferred address with the court for a particular case. The BNC will attempt to contact the preferred address recipient regarding the need for address correction.

Filing a change of address with the court is the responsibility of debtors and creditors.

Providing valid addresses and updating the court record with changes of addresses will reduce the volume of returned mail that the debtor, the debtor's attorney and the court receives, and it will avoid unnecessary postage and other processing costs. Sample bypass notifications are attached as exhibits to the public notice "Bankruptcy Noticing Center Return Mail Bypass Notification"(10/7/09) which can be accessed on the court website under "Latest News".

~Debbie Lewis

### LOCAL RULES ADVISORY COMMITTEE (CONTINUED FROM PAGE 1)

#### ABOUT JUDGE KIMBALL

Judge Erik P. Kimball graduated from Boston College Law School in 1990. He began his legal career in Boston where he specialized in corporate bankruptcy and debt restructuring. He also spent a considerable amount of time doing pro bono work for individual debtors. In 1992 he received the Denis Maguire Pro Bono Award from the Volunteer Lawyers Project of the Boston Bar Association for his commitment to public interest and donated pro bono hours representing individual debtors.

Over the next 11 years, Judge Kimball worked for mutual fund management companies where he represented institutional investors and indenture trustees in municipal bond defaults. He was a member of the Board of Governors and of the Executive Committee of the National Federation of Municipal Analysts.

In 2003, Judge Kimball moved to Orlando Florida where he was a shareholder with Akerman Senterfitt. In addition to representing investors and trustees, he also represented local corporate debtors and secured credi-

tors, in order to acquaint himself with the people and professionals in the Middle District.

A little over 2 years ago, on June 23, 2008, Judge Erik P. Kimball began his 14 year appointment as the newest and youngest bankruptcy judge here in the Southern District of Florida, West Palm Beach Division. Over the past two years, Judge Kimball has tried some very interesting and high profile cases, including the recently publicized case of Jay Levin and Medical Staffing Network, Inc. ~Dawn Leonard



**PROPER LINKAGE OF A CERTIFICATE OF SERVICE**



The key to proper linkage when filing a certificate of service is to select the correct category(ies) to which the certificate of service refers (e.g., motion, order etc...) One of the most common linkage errors occurs when an e-filer attempts to file a certificate of service of a notice of hearing. All notices of hearing fall into two categories: **“attyhrhg”** or **“court”**. (Exhibit A) A notice of hearing in a chapter 13 case that is self-calendared by the e-filing attorney can be located by selecting the **“attyhrhg”** category. All other court-issued notices of hearing can be located by selecting the **“court”** category.

Ensure that the final docket text matches the linkage referenced within the PDF image. For example, if the image references a **“Motion for Relief from Stay”** **AND** a court-generated **“Notice of Hearing”**, the categories to select will be **“motion”** and **“court”**. (Exhibit B)

Multiple categories can be selected by pressing and holding the **Ctrl** key while clicking the mouse. Accurate linkage is essential so that the court can readily determine whether a notice of hearing and/or other document has properly been served. Additionally, correct linkage will prevent the issuance of a clerk’s **“Notice to Filer of Apparent Filing Deficiency” (NAFD)**, those lovely red notes on a docket that make e-filers cringe!

**Exhibit Attachments**

Please remember that pursuant to LR 9004-1(D), if a paper

being filed refers to an exhibit previously electronically filed in a case or proceeding, you should not attach and file the exhibit or document again. Instead the paper being filed should reference the previously filed document by docket entry or claim number

~ Natalia De Lara

*Select the category to which your event relates.*

Exhibit A

Exhibit B

**THE ROLE OF THE COURTROOM DEPUTY (CRD) IN THE CLERK’S OFFICE**

The role of the courtroom deputy (also known as a “CRD”) in the clerk’s office is that of “liaison” between chambers and the clerk’s office and between chambers and the public. A CRD is responsible for maintaining the calendar of the assigned judge and ensuring that the judge has everything needed to begin the hearing calendar. This includes scheduling a court reporter on a daily basis, preparing the calendar for posting and setting up court call for the attorneys that are appearing by phone. Maintaining a judge’s calendar requires attention to detail, and good organizational skills.

Each calendar must be coordinated depending upon the availability of the judge, the notice period required, and the needs of the parties. The CRD is responsible for scheduling initial hearings, as well as for processing calendar updates, including scheduling emergency hearings or rescheduling hearings that have been cancelled or continued. The CRD advises parties when it is their responsibility to provide notice of a hearing and file a certificate of service. Each judge is assigned a CRD and in turn, the CRD is assigned a backup from the clerk’s office.

The public should contact the CRD for information pertaining to a hearing, for coordination of telephone appearances and to obtain answers to routine questions related to hearings. Parties, particularly those not appearing frequently, should consult each judge’s web page information to familiarize themselves with court protocol. This information, along with CRD contact information, can be accessed on the court website under the tab titled “Judges Information.” As a reminder, please be aware that CRDs can not give legal advice.

~ Hebe Montygierd



**Due U Chek Yore dokumnts B4 Submiting Thm 2 thee Cort?**

This column, while meant to poke good-natured fun of unintentional errors in documents filed with the court, is also intended to bring to light that these small “boo boos” can have a negative effect on how cases and their status appear in the official court record. Filing errors are not only embarrassing for the person who created the document, but they can also affect the workload of court personnel responsible for overall quality control of docket entries and related attachments. Below is an excerpt from an actual proposed order submitted

to the court for the judge’s signature. The name and case number have been removed to protect the innocent. : - ) This is a perfect example of errors that are so easily made but also so easily overlooked since our minds are trained to see the circled words correctly, even when they are not correct. The order below was caught before it made it to the case docket but court staff don’t always catch all of the goofs. Also, as represented in the example by the words “forth” and “grating”, spell check should not solely be relied on to catch errors. These

days everyone is so used to texting in code on cell phones that the necessity of using correct spelling and grammar in formal writing is being lost. It appears that, when it comes to drafting court documents, we’ll have to recognize the limitations of technology and stick to the old fashioned way of checking and re-checking ourselves to avoid unintentional errors. Please take a few extra minutes to proofread documents before they are submitted to the court.

~ Judy Shafron

IN RE:	CASE NO. CHAPTER 13
Debtor(s)	
<p><b>ORDER GRATING MOTIN TO MODIFY CHAPTER 13 PALN</b></p> <p><b>THIS CAUSE</b> having come before the Court on July 7, 2010, upon the motion of (“Debtor”) to Modify Chapter 13 Plan and the Court having reviewed the pleadings and heard argument of counsel does hereby find and determine as follows.</p> <p>The Motion is <b>GRANTED</b>.</p> <p>1. The term of the <b>Forth</b> Modified Chapter 13 Plan (the “Plan”) shall be extended</p>	

**FAST FACTS:  
THERE ARE 3,201 REGISTERED CM/ECF  
USERS IN THIS COURT**

**2,393 ATTORNEYS HAVE FULL  
FILING PRIVILEGES**

**222 ATTORNEYS HAVE LIMITED  
FILING PRIVILEGES**

**586 NON ATTORNEYS HAVE LIMITED  
FILING PRIVILEGES**

FOR INFORMATION ABOUT BECOMING A REGISTERED USER, VISIT THE CM/ECF PAGE ON THE COURT WEBSITE





## HELP DESIGN THE NEXT GENERATION OF THE CM/ECF SYSTEM

Over the past decade the Federal Judiciary's Case Management/Electronic Case Files (CM/ECF) system has dramatically streamlined and simplified federal court case filing, management, and access. Now, a group of federal judges and court staff is thinking about the future of that system and asking: "If we could change CM/ECF in any way, what

would we want the Next Generation system to look like?"

Broad input is being solicited from those who have hands-on experience.

This includes CM/ECF's external stakeholders, which consist of consumer groups, attorneys, filers, and government agencies.

What changes in CM/ECF would you like to see? To let us know, please visit this link to take the survey:

<http://survey.fd.org/TakeSurvey.aspx?SurveyID=mlM186m>



## ELECTRONIC PUBLIC ACCESS (EPA) FEE SCHEDULE AMENDED

Effective March 2010, the EPA fee schedule has been amended for the appellate, district, and bankruptcy courts, the United States Court of Federal Claims, and the Judicial Panel on Multidistrict Litigation, to waive fees so that users are not billed unless they accrue charges of more than \$10 of PACER usage in a quarterly billing cycle.

Previously, users were not billed until their accounts totalled as least \$10 in a one-year period. Additionally, the amended EPA fee schedule establishes a \$2.40 fee for accessing digital audio files for those courts who post digital audio files on their dockets. The digital audio fee change required a CM/ECF software modification which will be included in version 3.4.

To register for a PACER account: <https://www.pacer.gov/psco/cgi-bin/regform.pl>

The amended fee schedule can be accessed on the court website, under this tab



Select "Clerk's Instructions" and then "Clerk's Instructions For Electronic Public Access Services".

## Rhymer Reminder

### E-Filing Changes of Addresses



Moved and need to receive all court notices with success?

Inform the court by filing a Notice of Change of Address!

In each case the change is to be reflected,

e:file your document for the address to be corrected.

From the 'Notices' category, you must carefully select.

Be sure your image contains the exact change you wish to affect.

It's very simple, we're sure you'll agree,

but feel free to refer to Local Rule 2002-1(G).

Registered Users changing an account login

must do so in writing using professional jargon.

Your written request regarding your Login account above

must be e:mailed to the Clerk's Office at [CMECF\\_Support@flsb.uscourts.gov](mailto:CMECF_Support@flsb.uscourts.gov)

~ Lorraine Adam





**PRO SE DEBTORS AND CREDITORS:  
DOES THE COURT HAVE YOUR CURRENT ADDRESS?**

If you are representing yourself in a case in this court, make sure the court has your current address so you can receive important mail from the court about your case.

**If you are a debtor**, the address the court will use to send you mail will be the “mailing address” you provided in your petition. It will not change until the court is notified of a change of address in writing.

**If you are a creditor**, the address the court will use to send you mail will be the address listed for you by the debtor in the debtor’s mailing matrix filed with the petition, or, if you filed a proof of claim in a case that has a claims bar deadline set, the address you put on your claim in the section “name and address where notices should be sent”. It will not change until the court is notified of a change of address in writing.





**To change your address:** If the address the court has on file is not your current address, you must notify the court in writing that your address has changed by filing a “Notice of Change of Address”. To do this, mail or bring to the clerk’s office a paper signed by you that includes the following information: the name of the case, the case number, your name, your old address and your new address. Title the paper “Notice of Change of Address”. If you are a creditor in more than one case in this court, you must file a “Notice of Change of Address” in each case.






**What if my mail is already being forwarded by the US Postal Service from the old address the court has?** Most U.S. Postal Service forwarding orders expire after one year. Many bankruptcy cases last longer than a year. If your forwarding order has expired and mail sent to you comes back to the court, it will not be resent by the court. **To avoid missing out on important information in your case, file a “Notice of Change of Address” with the court.** See also Bankruptcy Rule 2002(g) and Local Rule 2002-1(G). Note to creditors, if you are a CM/ECF registered user you can e:file your change of address. See the rhyme on page 5.









~ Debbie Lewis







**BANKRUPTCY UNSCRAMBLE** ~ Debbie Lewis

Unscramble each word below and use letters in each box marked with this shape  to answer the question .

    HSCA









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









        DRICSETRO

      RAEDBR

WHAT MIGHT HAPPEN IN A BANKRUPTCY CASE?  
(THREE WORDS)

Answer is on page 7



**THE INSIDE BUZZ:  
CLERK'S OFFICE  
ANNOUNCEMENTS**



**“NAME THE PUBLICATION” WINNING  
ENTRY CHOSEN**

Lorraine Adam, who works as a case administrator in the West Palm Beach division of the clerk's office, has submitted the winning entry in the “Name the New Court Publication” competition. The winning name “Bankruptcy Buzz” was chosen by a vote of court staff from nine other court staff entries. Lorraine has been an employee of the court for sixteen years. Great suggestion Lorraine!

\*\*\*\*\*

**COURT EMPLOYMENT OPPORTUNITIES  
POSTED:**

- Operations Manager**
- Case Administrator**
- Procurement Specialist**

For details about these vacancies, access the “Employment” tab on court web page [www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)



**\*\*\*\*\*WANTED\*\*\*\*\***

EXPERIENCED CM/ECF REGISTERED USERS IN THIS COURT WILLING TO SHARE INFORMATION THAT MIGHT BENEFIT THE NEWLY REGISTERED CM/ECF FILER FOR USE IN A FUTURE ARTICLE INCLUDING:

- RED NOTICES OF APPARENT DEFICIENCIES THAT THE CLERK HAS ALREADY CORRECTED: WHAT, IF ANY, ACTION DOES YOUR OFFICE TAKE TO REVIEW THEM TO PREVENT THEM FROM REOCCURRING?
- DO YOU HAVE ANY TIPS FOR REGISTERED USERS YOU HAVE DISCOVERED ON YOUR OWN?

PLEASE EMAIL YOUR SUGGESTIONS TO :

[Debbie\\_Lewis@flsb.uscourts.gov](mailto:Debbie_Lewis@flsb.uscourts.gov)

**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](mailto: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.

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

Miami: (305) 714-1800

Ft. Lauderdale: (954) 769-5700

West Palm Beach: : (561) 514-4100

**Policy Regarding Emergency  
Closure of Courthouses In The Event of  
Hazardous Weather Conditions**

Since we are in the midst of hurricane season we want to remind you that in the event of hazardous weather conditions that cause the local public schools within a particular county to close, absent any further order of this court, the federal bankruptcy courthouse within that county will also close. See local Administrative Order 07-9.

During an emergency situation, the clerk of court may also attempt to provide additional information to the public regarding court access by posting information on the court website or telephone systems or through the media, if these systems are accessible during that time.

ANSWER TO  
"BANKRUPTCY  
UNSCRAMBLE":  
WORDS: CASH,  
JUDGE, CREDITORS,  
BARED  
PHRASE: DEBTS ARE  
DISCHARGED