



# BANKRUPTCY BUZZ

LOCAL NEWS AND INFORMATION

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

OCTOBER 2013

## DIGITAL AUDIO RECORDING HAS ARRIVED IN SOUTH FLORIDA

The U.S. Bankruptcy Court for the Southern District of Florida is transitioning from traditional court reporting to digital audio recording (DAR) of all court proceedings. The courtroom technology selected is ForTheRecord® (FTR). A link to the [FTR](#) website is provided for informational purposes. The court is currently undergoing the first phase of the transition in the Fort Lauderdale and West Palm Beach divisions. The Miami division will transition to DAR after it moves to the C. Clyde Atkins U.S. Courthouse in late 2014.

Effective October 1, 2013, all court proceedings in Fort Lauderdale and West Palm Beach will be digitally recorded, exclusively, and will constitute the official record of the court. Requests for transcripts prior to October 1, 2013, will continue to be sent to Ouellette & Mauldin Court Reporters.

Requesting a Transcript or Audio Recording of Proceedings Held on or after October 1, 2013:

### **To Request a Transcript**

Complete NEW Local Form “Transcript Request Form.” This form will be posted on the court web page under the local forms tab and will also be available at the clerk’s office in paper form. The completed form must be submitted directly to the court transcriber (Ouellette & Mauldin Court Reporters) by email or U.S. mail. The clerk’s office will not accept transcript requests. A separate form must be submitted for each hearing transcript being requested. **The Judicial Conference Maximum Transcript Rates are posted on the court’s web page under the Filing and Fee Information tab.**

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### **ENTRY OF U.S. DISTRICT COURT, SDFL AO 2013-56**

Please be advised that on September 18, 2013, Chief U.S. District Judge Federico Moreno entered Administrative Order 2013-56 “In re Amended Designation of Bankruptcy Judge Paul G. Hyman, Jr., as Chief Bankruptcy Judge” extending the designation of Judge Hyman as Chief Bankruptcy Judge for the Southern District of Florida, “until further order of the Court”.

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### **Bankruptcy Cases Filed From 1/1/13 to 8/31/13:**

**Total Filed: 21,038**

- Chapter 7 : 13,947
- Chapter 9 : 0
- Chapter 11 : 217
- Chapter 12 : 5
- Chapter 13 : 6,867
- Chapter 15 : 2

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

**Case  
Information**



## **FLORIDA BANKRUPTCY COURTS SEEK PARTICIPANTS TO COMPLETE SURVEY ON LOSS MITIGATION MEDIATION PROGRAMS**

The U.S. Bankruptcy Courts for the Southern, Middle and Northern Districts of Florida are jointly conducting a survey on mortgage mitigation mediation programs offered in their respective courts. The survey will be open for responses from September 16 - December 2, 2013. The survey is open to everyone regardless of whether or not they have participated in one of the programs currently offered.

The survey is anonymous and will be used to provide feedback to the respective judges and working groups in each district on the effectiveness of the three Florida programs, including: what is working well and what is not, whether the court should consider adopting some provisions of another court's program and whether or not there is a desire to have a uniform program in Florida.

Registered CM/ECF users in each court have been sent a separate email invitation to participate in the survey. In addition, a link has been posted on each court's site for non CM/ECF users to access the survey.

Participants are asked to complete the survey only once and only for one court, even if they have experience with the programs of the other two courts. The questions will allow participants to provide input on their experiences in all the programs they have participated in. Responses from all three courts will be shared among the courts, along with the options to review responses specifically from the court in which the survey was completed.

## **UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF FLORIDA LOSS MITIGATION MEDIATION PROGRAM STATISTICS APRIL 1, 2013 THROUGH SEPTEMBER 22, 2013**

Total LMM Motions for Referral to LMM Program filed: 1,514 (including 9 by pro se) as follows:

Ft. Lauderdale - 597  
Miami- 574  
West Palm Beach - 343

Total Orders of Referral to LMM Program Entered: 860

- Number of Final Reports Filed by Loss Mitigation Mediator Indicating that Agreements Were Reached: 49
- Number of Final Reports Filed by Loss Mitigation Mediator Indicating that Agreements Were Not Reached: 11

## **USBC SDFL LOSS MITIGATION MEDIATION FLOWCHART NOW AVAILABLE**

A flowchart depicting the USBC SDFL LOSS MITIGATION MEDIATION PROGRAM process for attorney represented debtors has been added to the LMM webpage of the court at [www.flb.uscourts.gov](http://www.flb.uscourts.gov). To access this information, select the Loss Mitigation Mediation Program link on the home page:

[http://www.flb.uscourts.gov/FRAMES/Loss\\_Mitigation\\_Mediation.pl](http://www.flb.uscourts.gov/FRAMES/Loss_Mitigation_Mediation.pl)



## APPOINTMENT AND PAYMENT OF LANGUAGE AND HEARING-IMPAIRED INTERPRETERS

**Bankruptcy Court Proceedings:** The Judicial Conference Guide to Judiciary Policy, Volume 5, Chapter 2, sets forth the policy for providing interpreter services for court proceedings as well as communications between counsel and the parties in bankruptcy court proceedings. Section 240 of the Guide states: “In a bankruptcy appeal in a district court or a bankruptcy case in bankruptcy court, the parties are responsible for providing interpreter services for court proceedings as well as communications between counsel and the parties, except in very limited instances when the bankruptcy proceedings are instituted by the United States or when the parties have a hearing impairment....” The Guide defines matters instituted by the United States as adversary proceedings initiated by agencies such as: the U.S. Trustee (UST); the Internal Revenue Services (IRS), the Securities and Exchange Commission (SEC) and the Federal Deposit Insurance Corporation (FDIC).

All federal courts provide reasonable accommodations to persons with communications disabilities. In accordance with Judicial Conference policy, a court must provide sign language interpreters or other auxiliary aides and services to participants in federal court proceedings who are deaf, hearing-impaired or have communication disabilities, and may also provide these services to spectators when deemed appropriate. Persons appearing before the bankruptcy court with communications disabilities that require interpretation services may contact the divisional clerk’s office where the services will be required:

Miami: Denise Eyerman, 305-714-1824;  
FTL: Chris LaCoursiere , 954-769-5701; or  
WPB: Cameron Cradic, 561-514-4107.

**United States Trustee Program:** The United States Trustee program provides free of charge telephonic interpreter services for persons with limited English proficiency (“LEP”) at the mandatory meeting of creditors (11 U.S.C. § 341). Interpretation is currently available in approximately 200 languages. This service does not require prior notice, although to minimize delays at the meeting of creditors, individuals wishing to take advantage of this free of charge service are encouraged to contact the case trustee in advance of the § 341 meeting. Individuals requiring language interpretation may use the service provided by the United States Trustee or they may choose to use the service of a qualified, independent third party interpreter of their choice to assist them, at their expense. The use of relatives of the LEP person, debtor’s counsel, or employees of debtor’s counsel as interpreters is not permitted. The United States Trustee Program also offers the services of a sign language interpreter at the meeting of creditors. This service is available to debtors and creditors. Prior notice is required because the United States Trustee must schedule the interpreters several weeks in advance. Please make the request as soon as you receive notice of the § 341 meeting date by sending an email to Myriam Fernandez, a Legal Clerk in the Office of the United States Trustee (Myriam.A.Fernandez@usdoj.gov), with a copy to the chapter 7 or 13 trustee. Please be sure the subject line of the email identifies the nature of the request (e.g., “Request for Sign Language Interpretation at § 341 Meeting”), the date of the meeting, the debtor’s name and full case number (including judge’s initials), and any limited English proficiency issues. Please also enclose the first page of the § 341 meeting notice.

By Katherine Gould-Feldman



## DEFAULT AND SUMMARY JUDGMENTS AND WRIT PROCESS

### Defaults

If a defendant has failed to plead or otherwise file an answer to a properly served adversary complaint, the plaintiff may file a Verified Motion for Entry of Default upon expiration of the answer deadline. The clerk's office will serve a Notice of Entry of Default, which is the proverbial "second bite at the apple." It provides an opportunity for the defendant to address all claims. Issuance of an Entry of Default precedes issuance of a default judgment.

The Verified Motion for Entry of Default, filed pursuant to Bankruptcy Rule 7055 and Local Rule 7055-1, must contain the following facts:

1. That the defendant has been properly served with the complaint, specifying the date and manner of service;
2. That no answer or response has been served upon the plaintiff; and
3. If the defendant is an individual, that he or she is not a member of the U.S. military service.

If defaults have been entered against all defendants, the plaintiff may file a Motion for Default Judgment and include a supporting affidavit of the amount of damages sought. This motion will be set for a hearing. *A proposed Final Default Judgment must specify the actual amount(s) awarded and may not merely refer to amounts contained in a previously filed document.* After entry of the Final Default Judgment, the clerk's office will serve a Notice of Entry on Docket of Judgment/Order upon all parties.

### Motions for Summary Judgment or Partial Summary Judgment

A party filing a Motion for Summary Judgment against an individual must concurrently serve and file the Local Form "Notice Regarding Opposing Motions for Summary Judgment," and file a certificate of service. The court may grant summary judgment after a hearing - as applicable - if the movant shows that there is no genuine dispute of any material fact and if the movant is entitled to judgment as a matter of law. Further, pursuant to the Order Setting Filing and Disclosure Requirements Before Pretrial and Trial, all motions for summary judgment must be filed and served no later than 10 days before the pretrial conference, and shall comply with Local Rule 7056-1.

### Enforcement of a Judgment

A certified copy of a judgment is required for enforcement or collection of same, which is why the judgment must specify the actual amount(s) awarded for the clerk to issue a writ. Please refer to Local Rule 7069-1 for guidance, and a recap of filing requirements is as follows:

**Writ of Execution** (CM/ECF users: File as [Adversary > Motion/Application > Writ of Execution Motion.](#))

- ◆ Motion for Writ of Execution
- ◆ Local Form "Writ of Execution to the United States Marshal"
- ◆ certified copy of the judgment
- ◆ Bill of Costs, if entered (Reference: Local Rule 7041-1; Local Form "Bill of Costs"; and "Guidelines for Taxation of Costs by the Clerk")

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**DEFAULT AND SUMMARY JUDGMENTS AND WRIT PROCESS** (continued from page 4)

**Writ of Garnishment** (CM/ECF users: File as [Adversary > Motion/Application > Writ of Garnishment Application](#).)

- ◆ prepared Writ of Garnishment (1. Include reference that the \$100 garnishee deposit is held in the United States Treasury Registry and is payable to garnishee upon demand; 2. If sought against an individual, include Local Form “Notice Pursuant to Florida Statute 77.041 To Defendant of Right Against Garnishment of Wages, Money and Other Property.”)
- ◆ certified copy of the judgment
- ◆ Bill of Costs, if entered (References: Local Rule 7041-1; Local Form “Bill of Costs”; and “Guidelines for Taxation of Costs by the Clerk”)
- ◆ \$100 garnishee deposit (collected when filed)

NOTE: If applicable, the court may conduct a hearing on a Claim of Exemption and Request for Hearing filed by a defendant, which is a part of the Local Form referenced above.

**Continuing Writ of Garnishment** (CM/ECF users: File as [Adversary > Motion/Application > Continue Writ of Garnishment](#).)

- ◆ Motion for Continuing Writ of Garnishment
- ◆ proposed order
- ◆ prepared Continuing Writ of Garnishment

The clerk will issue a writ upon completion of the above and entry of an order granting this motion.

**Requirement to File Satisfaction of Judgment** (CM/ECF users: File as [Adversary > Other > Satisfaction of Judgment](#).)

The judgment creditor must promptly file a Satisfaction of Judgment upon collection of the judgment.

**Effect of Appeal**

A notice of appeal does not stay the clerk’s issuance of any writ unless an order is entered which grants a stay of execution prior to expiration of the time for appeal of a judgment.

By: Cameron Cradic

**U.S. COURT’S PUBLICATION THE THIRD BRANCH NEWS RECENT ARTICLES**

<http://news.uscourts.gov/conference-approves-additional-cost-saving-measures>

<http://news.uscourts.gov/quiz-yourself-us-constitution>



## **DIGITAL AUDIO RECORDING HAS ARRIVED IN SOUTH FLORIDA (continued from page 1)**

Note: The Local Form "Appeal Information Sheet" will be abrogated effective October 1, 2013, and replaced with new Local Form "Transcript Request Form." Transcript requests for hearings held in Miami must also be submitted to Ouellette & Mauldin Court Reporters using the new local form.

### **To Request an Audio Recording (CD)**

Requests for compact discs (CD) containing audio recordings of proceedings held on or after October 1, 2013, can be purchased at a cost of \$30.00 for each hearing requested. Complete NEW Local Form "Request for Compact Disc (CD) of Audio Recording of Court Proceeding." This form will be posted on the court web page under the local forms tab and will also be available at the clerk's office in paper form. The completed form must be submitted to the clerk's office for processing. CD's of audio recordings will be available within 48 hours upon receipt of the request. Clerk's office will contact you when the CD is ready for pickup. If you request the CD to be mailed to you, you must provide the clerk's office with a padded, self-addressed stamped envelope along with the required fee. A separate request form must be completed for each hearing requested. Requests for audio recordings will not be accepted in the courtroom.

During this transition, we ask that you familiarize yourself with digital audio recording etiquette and follow these basic guidelines when appearing in Fort Lauderdale and West Palm Beach courtrooms:

1. Speak clearly, audibly and directly into the microphone.
2. Do not speak over another person.
3. Identify yourself by stating your full name before you begin speaking.
4. Clearly identify the party you represent (spell difficult names for the record).
5. Be prepared to provide your business card with your client's name written on the front. This helps courtroom staff and transcribers identify attorneys and parties in large, busy cases.
6. All proceedings are being digitally recorded - be mindful of side conversations.
7. Requests for transcripts or CD recordings will not be accepted in the courtroom.
8. Avoid reciting personal data and other sensitive information into the record. Limit social security and financial account numbers to last 4 digits; limit names and birth dates of minor children to initials and birth year.
9. Exhibits submitted to the court that contain personal identifiers must be redacted.
10. Portable, clip-on microphones are available in all courtrooms. These may be particularly helpful when questioning a witness. If you think you may need a clip-on mic during the proceeding, advise courtroom personnel before the proceeding begins.
11. At the conclusion of a proceeding, please be mindful of the noise level and conversations until the judge leaves the bench and the recording equipment is turned off.

More information on how to obtain a transcript or digital audio recording of a proceeding will be posted prior to October 1 on our court website at [www.flsb.uscourts.gov](http://www.flsb.uscourts.gov).

By: Maggie Fèreère



## FREE BANKRUPTCY CLINIC

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

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

Friday, October 11, 2013 12 p.m. – 2 p.m.  
Friday, November 8, 2013 12 p.m. – 2 p.m.  
Friday, December 13, 2013 12 p.m. – 2 p.m.

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

Friday, October 4, 2013 12 p.m. – 1:30 p.m.  
Friday, November 1, 2013 12 p.m. – 1:30 p.m.  
Friday, December 6, 2013 12 p.m. – 1:30 p.m.

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

Wednesday, October 16, 2013 11:30 a.m. – 1 p.m.  
Wednesday, November 13, 2013 11:30 a.m. – 1 p.m.  
Wednesday, December 11, 2013 11:30 a.m. – 1 p.m.

**\* In Fort Lauderdale and West Palm Beach, you cannot bring a cell phone or other electronic device to the courthouse or you will be denied entry. Cell phones and electronic devices will not be stored for you.**

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

### FOR FURTHER INFORMATION, PLEASE CONTACT:

Miami: [kladis@dadelegalaid.org](mailto:kladis@dadelegalaid.org) (Karen Ladis)  
Fort Lauderdale: [ksalamone@dkdr.com](mailto:ksalamone@dkdr.com) (Kimberly Salamone)  
West Palm Beach: [erosen@rosenpa.com](mailto:erosen@rosenpa.com) (Eric Rosen)

### COAST TO COAST LEGAL AID OF SOUTH FLORIDA, INC. OFFERS LEGAL ASSISTANCE TO BROWARD LOW INCOME SENIORS FACING FORECLOSURE

Coast to Coast Legal Aid of South Florida, Inc. (CCLA) is a non-profit law firm that represents low income residents of Broward County. Armed with a grant from The Salah Foundation, CCLA provides comprehensive legal assistance to Broward County's low income seniors facing foreclosure, including Chapter 13 bankruptcy relief where necessary to save the homestead. While there is no fee for our services, the client is responsible for payment of filing fees and costs. For further information or to refer a client, please call 954-736-2450.





**RULE TEASERS** By: Lorraine Adam

**DIRECTIONS: USE THE RANDOM WORDS LISTED AFTER EACH SENTENCE BELOW TO FILL-IN THE BLANKS TO COMPLETE EACH RULE.**

The \_\_\_\_\_ shall \_\_\_\_\_ for \_\_\_\_\_ an \_\_\_\_\_ petition that is not \_\_\_\_\_ by \_\_\_\_\_ of the \_\_\_\_\_ creditors. (CLERK; PETITIONING; REFUSE; ALL; SIGNED; FILING; INVOLUNTARY) Hint: see Local Rule 1003-1

A \_\_\_\_\_ agreement made by a \_\_\_\_\_ to entry of the \_\_\_\_\_ shall be declared \_\_\_\_\_ by the \_\_\_\_\_. (DEBTOR; REAFFIRMATION; SUBSEQUENT; COURT; DISCHARGE; INVALID) Hint: See Local Rule 4008-1

\_\_\_\_\_ of judgment shall be \_\_\_\_\_ with the court \_\_\_\_\_ upon \_\_\_\_\_ of the \_\_\_\_\_. (COLLECTION; PROMPTLY; FILED; SATISFACTIONS; JUDGMENT) Hint: See Local Rule 7069-1

Documents \_\_\_\_\_ with the court shall \_\_\_\_\_ have as an \_\_\_\_\_ any \_\_\_\_\_ already filed in the \_\_\_\_\_ or \_\_\_\_\_. (PROCEEDING; DOCUMENT; CASE; ATTACHMENT; FILED; NOT) Hint: See Local Rule 9004-1

The \_\_\_\_\_ must immediately \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_ upon the \_\_\_\_\_ parties served with the \_\_\_\_\_. (MOTION; SERVE; NOTICE; HEARING; MOVANT; SAME) Hint: See Local Rule 9073-1

**UPCOMING COURT HOLIDAYS**

Columbus Day - Monday, October 14

Veterans Day - Monday, November 11

Thanksgiving Day - Thursday, November 28

Christmas Day - Wednesday, December 25

New Year's Day (2014) - Wednesday, January 1

Birthday of Martin Luther King, Jr. (2014) - Monday, January 20

**COURT MISSION STATEMENT**

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

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

**CONTACT BANKRUPTCY BUZZ PUBLICATION STAFF**

If you have any comments regarding this issue or want to suggest ideas for future articles, please contact "Bankruptcy Buzz" staff at the following email address:  
Debbie\_Lewis@flsb.uscourts.gov.

Please do not use the above email address to file or send papers to the court or to ask questions about court procedure or status of a particular case. Contact the clerk's office at any of the following numbers for assistance in these matters.

Visit the court website [www.flsb.uscourts.gov](http://www.flsb.uscourts.gov) for local filing information.

Thank you.

Miami: (305) 714-1800

Ft. Lauderdale: (954) 769-5700

West Palm Beach: (561) 514-4100

**Please Note:**

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