



STATE OF THE DISTRICT Laurel M. Isicoff, Chief Judge

Well, all of you know by now that the face of our Court will be changing once again. Judge Raymond B. Ray, who has served this Court since November 9, 1993, has announced his retirement effective September 30, 2019. The application deadline has passed, and now the Eleventh Circuit is considering all of the candidates. We know that whomever is chosen will be a great choice (see, e.g., Judge Mora most recently), but Judge Ray will be sorely missed. I will write more about Judge Ray in my next report (there is so much to say; I will need to spend the next few weeks editing my remarks).

We are also getting a new courthouse in Fort Lauderdale. The site selection process is well underway and we hope to have a new courthouse by December 2024. The Atkins Courthouse is getting a facelift (well, actually, a new front entrance). The front entrance renovation project would expand the current lobby and security screening area out by enclosing the open breezeway space in front of the courthouse. This buildout would not only provide a physical security presence and enhanced visibility of individuals and vehicles approaching the courthouse, but it would also provide adequate shelter from the weather when lines are long.

Finally (for now), please save the date for October 24, 2019. The Committee on the Administration of the Bankruptcy System of the Judicial Conference is sponsoring a nationwide diversity event. Miami is one of the selected cities. The purpose of the event is to create greater diversity on the bankruptcy bench. Please watch your court emails (and the next edition of the Courthouse Beacon) for more details. A flyer about the event is printed below.

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SAVE THE DATE!

October 24, 2019

As part of its efforts to foster diversity in the bankruptcy bench and bar, the Judicial Conference of the United States Committee on the Administration of the Bankruptcy System presents:

ROADWAYS TO THE FEDERAL BENCH:

WHO, ME?

A BANKRUPTCY JUDGE?



Anticipated Locations:

- Washington, D.C.
- Atlanta, GA
- Boston, MA
- Chicago, IL
- Cincinnati, OH
- Dallas/Fort Worth, TX
- Denver, CO
- Detroit, MI
- Houston, TX
- Los Angeles, CA
- Miami, FL
- Minneapolis, MN
- New York City, NY
- Philadelphia, PA
- Phoenix, AZ
- St. Louis, MO
- Raleigh/Durham, NC
- San Francisco, CA
- Seattle, WA

****LIVE BROADCAST FROM WASHINGTON, D.C.
**LOCAL ROTATING ROUNDTABLE DISCUSSIONS
AMONG FEDERAL BENCH, BAR, AND LAW STUDENTS.**

Bankruptcy Cases Filed From 1/1/19 to 3/31/19

Total Filed: 4,249

- Chapter 7 : 2,337
- Chapter 9 : 0
- Chapter 11 : 71
- Chapter 12 : 0
- Chapter 13 : 1,838
- Chapter 15 : 3

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

Select: "Bankruptcy Case Filing Statistics"



PRO BONO CORNER



By: **STEVEN NEWBURGH, ESQ.**

**BBA Palm Beach Pro Bono Chair
and
BBA Director – Palm Beach County
Division**

On January 10, 2019, the Standing Pro Bono Committee of the Bankruptcy Court of the Southern District of Florida held its bi-monthly meeting. For the upcoming year, our Committee, under Chief Judge Laurel M. Isicoff's direction and guidance, will be implementing the following programs and clinics: The Pro Se Help Desk – The West Palm Beach Division is working through the kinks and streamlining the program. The organizers, Peter Kelly and Steven Newburgh are working on procedures and mechanics to enable the Division's Judges to address all non-pro se matters prior to hearing matters involving pro se parties. In theory, this will reduce waiting time for counsel on other matters. The Pro Se Help Desk will be staffed by at least two volunteer attorneys on each day where the court calendars show pro se parties scheduled to appear before the Court. At the beginning of each calendar, the Court will request all pro se parties to exit the courtroom to meet with the volunteer attorneys staffing the Pro Se Help Desk. The Help Desk will be located in one of the three conference rooms in the common passageway opposite the Division's two courtrooms. Matters involving pro se parties will then be heard at the end of each calendar. As soon as practicable, the Pro Se Help Desk will also be launched in the Broward and Miami-Dade Divisions. The Committee also addressed participation of Legal Services of Greater Miami, Broward Legal Aid and Florida Rural Legal Services in upcoming consumer bankruptcy clinics planned for Nova University Law Center, the 15th Judicial Circuit's Law Library and other venues. These consumer bankruptcy clinics are in addition to the monthly Pro Se Clinic presented by each Division as part of the Committee's continuing commitment to provide unfettered access to our bankruptcy courts and to provide at least a rudimentary understanding of the Code and how the process works in chapter 7 and chapter 13 for consumer debtors.

The Committee is also actively positioning to provide consumer bankruptcy assistance to our veterans. Tom Messina, who received the Chief Bankruptcy Judge's Pro Bono Award for 2018, is leading the charge. We will update you as our efforts on behalf of veterans become a permanent part of our District's pro bono programs. The Committee is also addressing the needs of our elderly population. A clinic specifically designed to assist the elderly regarding consumer bankruptcy issues is being developed. Additional programs and clinics are shown on the Court's website along with information on dates, locations and times for each event. If you know of a veteran or elderly person in need of bankruptcy counseling and assistance, please refer them to the Bankruptcy Bar Association's Chairperson for the appropriate Division.

For all bankruptcy attorneys: Please remember to reserve a few hours, monthly, to "give back". We have found that the attorneys who regularly volunteer uniformly report that they truly enjoy assisting those in need. The experience of representing someone who might otherwise be lost in the complexities of bankruptcy law and procedure can be gratifying. Please give it a try if you haven't previously volunteered to take a case.

Upcoming WPB Brown Bag CLE

April 24, 2019 – Litigation Tips, Tricks and Best Practices – (time TBA) – WPB Division Brown Bag CLE – Hon. Mindy A. Mora, Hon. Laurel M. Isicoff, Patricia Redmond, Paul Steven Singerman, Michael R. Bakst. (Rilyn and Steven organizers/moderators)



FROM THE JUDGES' CHAMBERS



EXTENDING DEADLINES IN SMALL BUSINESS CASES – THE CURIOUS CASE OF THE § 1121(E)(3) EVIDENTIARY AND SIGNATURE REQUIREMENTS

By: Jordan M. Wiegele Carter, Law Clerk to Judge Mindy Mora

A careful practitioner should take note of the different timeframes and deadlines in small business cases that apply, compared to the limitations that a regular chapter 11 debtor enjoys. For example, while an ordinary chapter 11 debtor has an exclusive right to file a plan and disclosure statement within the first 120 days of a case, a small business debtor is given an exclusivity period of 180 days. The 120-day exclusivity period to file a plan can be extended by an ordinary chapter 11 debtor, for cause, for up to 18 months, but a different rule applies in small business cases. A small business debtor can extend the 180-day exclusivity period to file a plan only up to 300 days unless extended by the bankruptcy court in a manner that is consistent with a set of unique requirements.

Normally, when seeking extensions of deadlines in the bankruptcy context, the general rule of thumb is that the motion to extend the deadline simply must be filed before the expiration of the existing deadline. That requirement applies to small business debtors as well, but the Bankruptcy Code mandates some additional requirements. Specifically, § 1121(e)(3)(C) adds a peculiar evidentiary requirement in the case of motions to extend the exclusivity period and to extend the deadlines to file a plan and disclosure statement and to achieve confirmation, as well as a temporal requirement in the case of an order granting such motions.

Section 1121(e)(3) provides that the time periods specified in paragraphs (1) (exclusivity deadline) and (2) (plan and disclosure statement deadline), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

- (A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;
- (B) a new deadline is imposed at the time the extension is granted; and
- (C) the order extending time is signed before the existing deadline has expired.

Section 1121 (e)(3)(A)'s requirement that the small business debtor prove by a preponderance of the evidence that it is more likely than not that the extension will result in a confirmed plan is clearly a far more rigorous standard than the "for cause" standard applied to other chapter 11 debtors to obtain an extension of exclusivity and the deadline to confirm a plan.

What appears to be truly unique in the bankruptcy context is section 1121(e)(3)(C)'s requirement that the extension order actually be signed by the bankruptcy court before the expiration of the existing deadline. Moreover, it is an absolute requirement that cannot be circumvented by the Bankruptcy Rules, including Rule 9006(b).

It is important for practitioners and the court to be aware of § 1121(e)(3)(C)'s signature requirement. It is unquestionably crucial for attorneys representing small business debtors to be aware that case law is clear that it is incumbent upon the party seeking the extension to ensure an order comes before the bankruptcy court for signature before the expiration of the existing deadline and to alert the court to the existence of the approaching deadline.



FROM THE JUDGES' CHAMBERS



“PLEAD OR OTHERWISE DEFEND” – THE CIRCUIT SPLIT OVER DEFAULT JUDGMENTS

By: Emily R. Stone, Esq., Law Clerk to the Hon. Laurel M. Isicoff,
Chief Judge of the United States Bankruptcy Court for the Southern District of Florida

Federal Rule of Civil Procedure 55(a) states that a default cannot be entered by the clerk unless the party against whom relief is sought has “failed to plead or otherwise defend.” But what does “plead or otherwise defend” really mean? And how does that meaning impact the burden on a plaintiff in a given adversary proceeding? It turns out that the answers to these questions are the subject of a circuit split.

Recently, in *Garrett v. Nestor (In re Nestor)*, No. 17-01485 (Bankr. S.D. Fla. Jan. 4, 2019)(order granting Brenda Nestor’s motion for relief from order and vacating default judgment), Judge Isicoff issued an opinion on whether a debtor-defendant in an adversary proceeding was entitled to vacate a default judgment pursuant to Fed.R.Civ.P. 60(b) when the debtor-defendant argued that she had “otherwise defend[ed]” in the action. In that case, the plaintiff filed a non-dischargeability and denial of discharge action against the debtor-defendant. The debtor-defendant filed a motion to dismiss, which the Court granted. The plaintiff subsequently filed a pared-down amended complaint based upon the Court’s ruling, after which, the debtor-defendant’s counsel withdrew. The debtor-defendant failed to ever file a timely answer or response to the amended complaint. However, the debtor-defendant did file a pro se motion to continue a hearing relating to discovery issued by the plaintiff. The plaintiff moved for the entry of a clerk’s default, to which the debtor-defendant filed a pro se response. After the plaintiff moved for entry of the clerk’s default, the debtor-defendant filed a pro se second motion to dismiss. Two days later, the plaintiff filed a motion for default judgment, which the Court granted in part after a hearing. The debtor-defendant then hired new counsel, who moved to vacate the default judgment.

The Court ultimately vacated the default judgment and analyzed the meaning of “plead or otherwise defend” in Rule 55(a). The Court explained that “pleading” has a clear meaning pursuant to Federal Rule of Civil Procedure 7. The interpretation of “or otherwise defend” is the basis of the circuit split, of which the Eleventh Circuit has adopted the minority view. Under the minority view, “[a] party who is served with a complaint has three options: [(1)] plead, [(2)] ‘otherwise defend’ or [(3)] suffer a default,’ Other circuits seem to read Rule 55(a) to offer only two options: (1) plead and otherwise defend or (2) suffer a default.” Josiah A. Contarino, *Playing by the Rules: FRCP 55(A) and the Circuit Split Regarding Its Meaning*, 25 Regent U. L. Rev. 209, 213 (2012-2013)(internal citations omitted). The majority view would permit the entry of a default judgment if a defendant failed to appear at trial after answering a complaint – only pleading and defending the action would prevent the default judgment. The minority view “interprets ‘or otherwise defend’ to encompass attacks on service or motions to dismiss, which prevent default without pleading on the merits.” Jessica Ruoff, *Rule 55: Why Broadly Interpreting “Otherwise Defendant” Protects a Diligent Party’s Rights and Encourages an Orderly and Efficient Judicial System*, 88 St. John’s L. Rev. 467, 483 (2014).

The Court observed that the effect of the Eleventh Circuit’s view on the meaning of the Rule 55(a) language consequently creates a heavier burden on a plaintiff once a defendant has mounted a defense. See *Solaroll Shade and Shutter Corp., Inc. v. Bio-Energy Systems, Inc.*, 803 F.2d 1130 (1986) (“[A] court can enter a default judgment against a defendant who never appears or answers a complaint, for in such circumstances the case never has been placed at issue. If the defendant has answered the complaint but fails to appear at trial, issue has been joined, and the court cannot enter a default judgment. However, the court can proceed with the trial. If plaintiff proves its case, the court can enter judgment in its favor although the defendant never participated in the trial.”) *Id.* at 1134.



FROM THE JUDGES' CHAMBERS



YES, THE COURTS ARE OPEN

By: Cheryl Kaplan, Esq., Law Clerk to the Hon. A. Jay Cristol

During the recent government shutdown, the Court received many inquiries regarding whether the bankruptcy courts were open for business and conducting hearings as usual. The simple answer: yes, the judiciary remained open and active during the 35-day shutdown. The judiciary sustained paid operations using its fee authority and no-year appropriations but was poised to furlough many of its employees as the judiciary funding was nearly depleted. However, regardless of any anticipated furlough, the Court remained fully operational, conducting business as usual.

On January 25, 2019, just one week before the bankruptcy courts were to furlough employees and operate on a more skeletal staff, Congress and the President reached a temporary agreement to extend through February 15, 2019, the 2019 fiscal year continuing resolution that expired on December 21, 2018. This extension allowed those federal government agencies that were impacted by the lapse in appropriations to reopen and remain open through February 15 while Congress and the Administration continued to negotiate issues on border security and other unfinished appropriations bills, including the bill that funds the judiciary. Although a lengthier government shutdown may have eventually impacted the funding for the bankruptcy courts, the Court remained open and expected to remain open and fully operational during the duration of the shutdown.

Pursuant to the terms of the continuing resolution, the Court continued all operations but limited its obligations to only those Court functions that were necessary to carry out the Court's mission and maintain current operations. The Clerk's office remained open for filing, case administrators maintained the Court's dockets, courtroom deputy clerks continued to set hearings and maintain the judges' motion and trial calendars, and the judges continued to hear and decide cases.

On February 15, 2019, the President signed into law the Consolidated Appropriations Act of 2019, funding the judiciary for the remainder of FY19 (through September 30, 2019). Thankfully, the Court was able to remain open and operational during this time of uncertainty.

National Bankruptcy Filings Fall Two Percent in 2018

Bankruptcy filings in the 12-month period ending December 31, 2018, fell two percent, compared with bankruptcy cases filed in calendar year 2017. According to newly released data, 773,418 cases were filed in 2018, compared with 789,020 in the previous year. For more details, visit <https://www.uscourts.gov/news/2019/01/29/bankruptcy-filings-fall-2-percent>.



DEDICATED MOTION EVENTS VS. “MISCELLANEOUS MOTION” EVENT

By Lucie Fleurimond

When e-filing motions, dedicated motion events are required because they perform “behind the scenes” functions. **The “Miscellaneous Motion” event is to be selected only when a dedicated event is not available.**

Before selecting “Miscellaneous Motion,” first determine if a specific relief type is available from the standard list of docket entry titles. Below are tips to consider before selecting the “Miscellaneous Motion” event.

- Use the Search tool located within the blue menu bar.
- Review the case history for similar motion entries.
- Determine if more than one event is required to docket your motion.

It is also helpful to anticipate the outcome of the motion. For instance, “Will my motion trigger a case status change?” (dismissal, conversion, case closure, case reopen, etc.); “Is there a filing fee due for my motion?”; “Do the local rules require a hearing or can it be filed on negative notice?”; If an answer is yes, there will be a dedicated event.

Regarding the “Search” tool: If you enter key words and a list of possible events will be displayed. For example, typing “relief,” “stay,” or “relief from stay” will enable the e-filer to select “Relief from Stay,” “Relief from Stay (Agreed),” or “Relief from Co-Debtor Stay,” and each is a dedicated event.

Multi-Part Motions:

Multi-part motions create a single docket entry for more than one type of relief. If a motion is being filed as a multi-part motion, use the Ctrl+Click button to select each type of relief in the order that they appear in the pleading’s title. For example, “Motion to Dismiss Case and/or Motion to Convert Case from Chapter 13 to 7” is a multi-part motion.

Quiz - Which of the following motions may be filed using the “Miscellaneous Motion” event?

- > Motion to Dismiss?
- > Motion for Relief from Stay?
- > Motion to Redact Personal Information?
- > Motion to Reopen?
- > Motion to Vacate?
- > Motion for Judicial Assistance?
- > Motion to Enter into an Agreement with a Third party?

Answers:

- > Motion to Dismiss? – No, there is a dedicated event.
- > Motion for Relief from Stay? – No, a fee is required.
- > Motion to Redact Personal Information? – No, a fee is required.
- > Motion to Reopen? – No, prompts within the event must be answered.
- > Motion to Vacate? – No, prompts within the event provide specific instructions and/or the motion links to a prior docket entry.
- > Motion for Judicial Assistance? – Yes
- > Motion to Enter into an Agreement with a Third party? – Yes, but perhaps a more descriptive title should be used depending upon legal references or the motion’s content.



OBTAINING DIGITAL AUDIO RECORDINGS OR TRANSCRIPTS OF COURT PROCEEDINGS

By: Dawn Leonard

The Judge has directed you to prepare the order ruling on a matter you brought before the court. By the time you get back to your office, you realize that your in-court note taking is not as thorough as you need it to be. Fortunately, the court uses digital audio recording for all court proceedings, and these recordings are stored in a digital file for easy access by court staff.

A compact disc containing an audio recording of a hearing is an option. The CD cannot be admitted as evidence, but should only be used for personal listening.

To request a CD of a court proceeding, submit a completed Local Form, "Request for Compact Disc (CD) of Audio Recording of Court Proceeding" to any clerk's office. A separate form is required for each hearing requested. If the request is made in person, the \$31.00 fee can be paid at that time or at the time of pick up. The request can also be made by U.S. Mail, along with a check made payable to US Courts and a padded self-addressed stamped envelope. Additionally, the request can be made by email to:
Audio_Recording_Request@flsb.uscourts.gov.

The audio CD will be completed within two business days, and the clerk's office will contact you when the CD is ready for pick up. If not previously tendered, payment must be made at the time of pick up.

After listening to the audio recording of the hearing, you decide that, due to the nature of the matter, you may need an official record of the hearing. You need to order a transcript. This format is admissible and can be used as evidence (such as for an appeal). Under Local Rule 8009-1(B) the Local Form "Transcript Request Form" shall be used to order any untranscribed portion of the record. See [Administrative Order 2018-07, Adoption of Revised Schedule of Transcript Rates](#).

To request a transcript, send the completed Local Form, "Transcript Request Form" to one of the authorized transcription services found on the court's website. You can submit your request by email, fax or U.S. mail. Do not submit this form to the clerk's office. The form provides cost information, deadlines, procedures, as well as guidelines as established by the Judicial Conference of the United States.

After being contacted by the court reporter, the clerk will upload the file to a portal that can only be accessed by the court authorized transcription services. Once completed, the transcriber will enter the transcript on the court's docket, pursuant to Local Rule 5005-1(A)(2)(b). The transcript will not be available for public viewing for 90 days from the date of filing.

Electronic access to the transcript will be available to you and to all those who have provided payment to the transcriber. The transcript is also available for viewing at a public terminal in any clerk's office. There is no charge for this service, but printed copies of a restricted transcript from a public terminal is forbidden. If a party does not have electronic access and requests a transcript, the transcript will be provided to them by the transcription service in paper format.

This entire process, including FAQs, is available on the court's website at www.flsb.uscourts.gov under the Programs and Services tab.



UNCLAIMED FUNDS – AN OVERVIEW

By: Tonya Armstrong

Procedures and requirements for unclaimed funds in this court can be found in Local Rules 3011-1 and 7067-1(D) and the “Clerk’s Instructions for Deposits Into and Withdrawals from Unclaimed Funds”. The following is an overview of the unclaimed funds deposit and withdrawal process.

Depositing Unclaimed Funds: Under section 347(a) of the Bankruptcy Code, a chapter 7, 12, or 13 trustee is required to stop payment on any check remaining unpaid 90 days after the final distribution in a case and pay the funds into the court for disposition under chapter 129 of title 28. Bankruptcy Rule 3011-1 requires the trustee to “file a list of all known names and addresses of the entities and the amounts which they are entitled to be paid from remaining property of the estate that is paid into court pursuant to §347(a) of the Code.” Under this court’s Local Rule 3011-1(B), a disbursing agent in a Chapter 11 liquidation case can deposit funds unclaimed 120 calendar days after the final distribution under the plan.

Deposits should be accompanied by Local Form “Notice of Deposit of Funds with the US Bankruptcy Court Clerk” and in compliance with the “Clerk’s Instructions for Deposits Into and Withdrawals from Unclaimed Funds”.

Locating Unclaimed Funds in Bankruptcy Court Cases: Bankruptcy unclaimed funds can be searched by using the U.S. Bankruptcy Unclaimed Funds Locator portal which is accessible from the court website at www.flsb.uscourts.gov under the “Court Information” tab. The unclaimed funds locator program is a centralized electronic search application that is currently used by more than sixty bankruptcy courts across the nation. Users may search for unclaimed funds by bankruptcy court district, name of claimant, name of debtor, case number and/or a specific dollar amount. Once on the Unclaimed Funds page, select the blue box labeled “Search Unclaimed Funds Records,” as this link will direct you to the U.S. Bankruptcy Unclaimed Funds Locator portal. Enter the applicable search criteria, then select Search.

Withdrawals from Unclaimed Funds: The withdrawal of unclaimed funds process consists of 1) the submission of Local Form “Application to Withdraw Unclaimed Funds”; 2) obtaining a signed order granting the application (hearing may be required); and 3) the disbursement of funds. See “Clerk’s Instructions for Deposits Into and Withdrawals from Unclaimed Funds”.

- A. **The Application to Withdraw Unclaimed Funds:** The first step to claiming unclaimed funds is submission of an application. All applications and supporting documents are to be completed, notarized (if required) and conventionally filed with the clerk’s office by US Mail or in person. Electronic filing of applications are not accepted. The application will be reviewed by the clerk to determine if the application meets the criteria for payment. If the claimant is determined eligible by the clerk to claim the funds, the application and the proposed order will be uploaded for the judge’s review and if, applicable, signature and entry on the court docket. If the clerk determines that the application presents an issue regarding eligibility to claim the funds, the application will be docketed by the clerk and referred to the court which will set a hearing on the application. In this court review of applications are conducted by clerk’s office staff in the financial division.
- B. **The Order:** Funds will be disbursed once the Order has been signed and docketed. Orders accompanying applications processed as eligible for payment by the clerk are signed electronically by the judge. Orders resulting from a hearing will be prepared according to the judge’s instructions in court.
- C. **The Disbursement:** The Administrative Office of the United States (AO) requires an AO213 form for all payments. The AO213 form is the Vendor Information / TIN Certification; a vendor is anyone receiving a payment from Treasury. The AO213 captures the vendor’s payment information and must be processed prior to payment. Therefore, to avoid delay in payment, the claimant should submit this form with the application. Once the vendor’s payment information is entered into the court’s financial system, a payment will be processed, and the claimant will receive payment in the form of a check mailed to the address on the AO213 or a direct deposit into the banking account provided.

Unclaimed Funds Forms:

Local Form “[Application to Withdraw Unclaimed Funds](#)”

Local Form “[Affidavit of Claimant](#)”

Local Form “[Order for Payment of Unclaimed Funds](#)”

Administrative Office of the U.S. Courts Form AO213 “[Vendor Information/TIN Certification](#)”



FILING A PROOF OF CLAIM? E-FILE IT FROM THE COURT’S WEBSITE

By: Conce Perusso

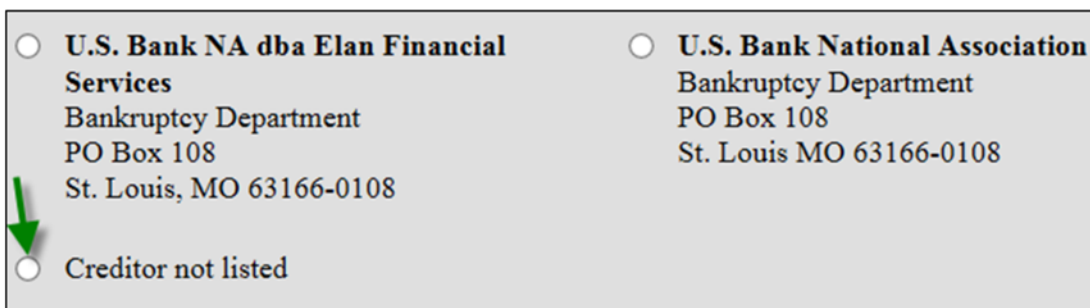
It is EASY and FAST to e-file a Proof of Claim using a link from the court’s website at www.flsb.uscourts.gov. You will need a case number, which can be found on any document sent by the bankruptcy court or it may be obtained by calling McVCIS (Multi-Court Voice Case Information System) at (866) 222-8029 [press #74 for the Southern District of Florida].

To begin from the Home page, select the link labeled “E-Filing (Proof of Claim)”.



All claims, whether e-filed using the above link or CM/ECF, are visible on the Claims Register for each case. To ensure accurate entries, please avoid the following common errors.

- At the first screen, to select a creditor name, most e-filers are better served by skipping the “Name of Creditor” field. Instead, proceed to the next screen and select a pre-typed creditor name and address OR click “Creditor not listed” to create a new creditor.



(continued on page 10)



FILING A PROOF OF CLAIM? E-FILE IT FROM THE COURT'S WEBSITE (continued from page 9)

- Also on the first screen, select the proper identity of the filer. The default is Creditor, but use the "Filed by" drop down box to select a different type as needed.

File Claim

Case Number: 9:18-bk-xxxx

Example: 14-00002

Name of Creditor:

Filed by: **Creditor** (dropdown menu)

NOTE: PLEASE SELECT CORRECT FILER TYPE

NOTE: Please type exact creditor name as listed in CM/ECF. If unknown, click NEXT to view list of available creditors.

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact Social Security or taxpayer identification numbers.

- Type all data carefully as each field creates an electronic Proof of Claim form. Therefore, do not attach another claim form with the same data. Filers may wish to attach *supporting documents* after item 12. All attachments must be in PDF format.

Documents: Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both.

Also attach redacted copies of any documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called "Bankruptcy Rule") 3001(c) and (d). ([See instructions](#), and the definition of "redacted".)

Attachments:

- Necessary documentation can be attached to the Proof of Claim after the information for the form is submitted.
- Attachments to the Proof of Claim are required to be PDF files.
- Attachments to the Proof of Claim are NOT to exceed 50 Mb in size.
- Multiple attachments to the Proof of Claim are permitted.
- Do not upload a completed Proof of Claim form as an attachment to this filing.** Attaching a completed Proof of Claim will result in multiple versions of the form being filed (the electronically created proof of claim form plus the proof of claim attached). If filing an Amended Proof of Claim, the attachment of the previously filed claim is allowed.

Note: You will have the option to select files to upload for this claim once you click on the "Submit Claim" button below

Do you wish to attach supporting documentation? Yes No

- After completing all data fields, enter the provided verification code (see example below) then click Submit Claim. A verification message will display. The filed claim can be viewed and/or printed.

SHORT Enter Verification Code (required)

**** Verify debtor name(s) prior to submitting claim to be filed.**

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both.
18 U.S.C. §§ 152, 157, and 3571.

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FREE BANKRUPTCY CLINICS

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**Dade Legal Aid Put Something Back Pro Bono Project
Legal Aid Society of Palm Beach, Inc.
Florida Rural Legal Services, Inc.
The American College of Bankruptcy Foundation &
The Bankruptcy Bar Association of the Southern District of Florida**

FREE PRO SE CLINICS AVAILABLE AT THE LOCATIONS AND TIMES BELOW! Each clinic features a 45 minute video providing an overview of the procedures for filing bankruptcy, followed by Question & Answer Sessions staffed by pro bono attorneys who are available to give general advice on bankruptcy matters. They do **NOT** represent you and do **NOT** provide you with legal advice regarding your particular circumstances. You are responsible for responding to any pleadings and for protecting your own legal rights. This is a **FREE** service and the attorneys are not there to attempt to acquire you as clients, or to ask you to pay them for advice or future services.

***Bankruptcy Court – Miami Division: 301 North Miami Avenue, Training Room**

Friday, April 5, 2019	12:00 p.m.— 2:00 p.m.
Friday, May 3, 2019	12:00 p.m.— 2:00 p.m.
Friday, June 7, 2019	12:00 p.m.— 2:00 p.m.
Friday, July 12, 2019	12:00 p.m.— 2:00 p.m.

***Bankruptcy Court - Fort Lauderdale Division: 299 East Broward Boulevard, 1st Floor Training Room**

Friday, April 19, 2019	12:00 p.m.— 1:30 p.m.
Friday, May 17, 2019	12:00 p.m.— 1:30 p.m.
Friday, June 7, 2019	12:00 p.m.— 1:30 p.m.
Friday, July 12, 2019	12:00 p.m.— 1:30 p.m.

***Bankruptcy Court - West Palm Beach Division-: 1515 North Flagler Drive, 8th Floor**

Wednesday, April 10, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B
Wednesday, May 8, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B
Wednesday, June 5, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B
Wednesday, July 17, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B
Wednesday, August 7, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B

Stuart/Port Saint Lucie/Indian River/Martin County: Peter & Julie Cummings Library, Deterlizzi Room 2551 Matheson Avenue, Palm City, FL 34990

**“Sponsored by Martin County Bankruptcy Committee and Martin County Library System’s
“Lawyers in the Library” Program – For information call 772-419-0057”**

Thursday, April 11, 2019	6:00 p.m.— 8:00 p.m.
Thursday, May 16, 2019	6:00 p.m.— 8:00 p.m.
Thursday, June 13, 2019	6:00 p.m.— 8:00 p.m.
Thursday, July 11, 2019	6:00 p.m.— 8:00 p.m.
Thursday, August 15, 2019	6:00 p.m.— 8:00 p.m.

Treasure Coast Bankruptcy Clinics (Indian River, Saint Lucie, Martin, Okeechobee)

Seating is limited please call Florida Rural Legal Services for more information and to register 1-772-466-4766 ext. 7016

Wednesday, May 1, 2019	2:00 p.m.
Wednesday, June 5, 2019	2:00 p.m.
Wednesday, July 3, 2019	2:00 p.m.
Wednesday, August 7, 2019	2:00 p.m.

***You may NOT bring cell phones or electronic devices into the courthouse or you will be denied entry. Cell phones and electronic devices will not be stored for you.**

FOR FURTHER INFORMATION, PLEASE CONTACT:

Miami:	(Karen Ladis)	kladis@dadelegalaid.org
Fort Lauderdale:	(Kimberly Salamone)	salamone.ecf@gmail.com
West Palm Beach:	(Rilyn Carnahan)	rilyn.carnahan@gmlaw.com
	(Steven S. Newburgh)	snewburgh@mclaughlinstern.com
Stuart/Port Saint Lucie:	(Jon Martin)	jimbklaw@gmail.com
Treasure Coast:	(Carolyn Fabrizio)	carolyn.fabrizio@frls.org



(ATTACHMENT TO NOTICE IS PRINTED ON PAGES 13, 14, AND 15)



UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF FLORIDA

www.flsb.uscourts.gov

Automatic Adjustment of Certain Dollar Amounts in the Bankruptcy Code and Forms

On **April 1, 2019**, automatic adjustments to the dollar amounts stated in various provisions of the Bankruptcy Code, and one provision in Title 28 of the United States Code will go into effect. The adjusted dollar amounts will apply to cases filed on or after April 1, 2019. The adjustments reflect the change in the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor for the three-year period ending December 31, 2018 and are rounded to the nearest \$25. Attached, find a chart identifying the affected sections of the Bankruptcy Code and Title 28, with the current and adjusted dollar amounts in those sections. The adjusted dollar amounts will affect:

- the eligibility of a debtor to file under chapters 12 and 13 of the Bankruptcy Code;
- the definition of a small business debtor;
- certain maximum values of property that a debtor may claim as exempt;
- the maximum amount of certain claims entitled to priority;
- the calculation of the “means test” for chapter 7 debtors;
- the duration of a chapter 13 plan;
- the minimum aggregate value of claims needed to commence an involuntary bankruptcy case;
- the minimum value for trustee avoidance actions; and
- the value of “luxury goods and services” deemed to be nondischargeable where the trustee may commence certain proceedings to recover a money judgment or property.

Additionally, the following Official Bankruptcy Forms and Director’s Forms contain references to several of the affected dollar amounts:

- [Official Form 106C, Schedule C: The Property You Claim as Exempt](#);
- [Official Form 107, Statement of Financial Affairs for Individuals Filing for Bankruptcy](#);
- [Official Form 122A-2, Chapter 7 Means Test Calculation](#);
- [Official Form 122C-2, Chapter 13 Calculation of Your Disposable Income](#);
- [Official Form 201, Voluntary Petition for Non-Individuals Filing for Bankruptcy](#);
- [Official Form 207, Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy](#);
- [Official Form 410, Proof of Claim](#);
- [Director’s Form 2000, Required Lists, Schedules, Statements, and Fees](#); and
- [Director’s Form 2830, Chapter 13 Debtor’s Certification Regarding Domestic Support Obligations and Section 522\(q\)](#).

The revised forms will be effective on **April 1, 2019**, and will apply to cases filed on or after that date. The revised forms incorporating the dollar amount changes have been posted to [Pending Changes in the Bankruptcy Forms page](#). Once effective, the revised forms will be available on the [Bankruptcy Forms page](#).



PAGE ONE OF ATTACHMENT TO CLERK’S NOTICE ON PAGE 12

Effective April 1, 2019

Affected Sections of Title 28 U.S.C. and the Bankruptcy Code	Dollar Amount to be Adjusted	New (Adjusted) Dollar Amount
28 U.S.C.		
Section 1409(b) - a trustee may commence a proceeding arising in or related to a case to recover <ul style="list-style-type: none"> - money judgment of or property worth less than - a consumer debt less than - a non consumer debt against a non insider less than 	\$1,300 \$19,250 \$12,850	\$1,375 \$20,450 \$13,650
11 U.S.C.		
Section 101(3) - definition of assisted person	\$192,450	\$204,425
Section 101(18) - definition of family farmer	\$4,153,150 (each time it appears)	\$4,411,400 (each time it appears)
Section 101(19A) - definition of family fisherman	\$1,924,550 (each time it appears)	\$2,044,225 (each time it appears)
Section 101(51D) - definition of small business debtor	\$2,566,050 (each time it appears)	\$2,725,625 (each time it appears)
Section 109(e) - debt limits for individual filing bankruptcy under chapter 13	\$394,725 (each time it appears) \$1,184,200 (each time it appears)	\$419,275 (each time it appears) \$1,257,850 (each time it appears)
Section 303(b) - minimum aggregate claims needed for the commencement of an involuntary chapter 7 or 11 petition <ul style="list-style-type: none"> - in paragraph (1) - in paragraph (2) 	\$15,775 \$15,775	\$16,750 \$16,750
Section 507(a) - priority expenses and claims <ul style="list-style-type: none"> - in paragraph (4) - in paragraph (5)(B)(i) - in paragraph (6)(B) - in paragraph (7) 	\$12,850 \$12,850 \$6,325 \$2,850	\$13,650 \$13,650 \$6,725 \$3,025



PAGETWO OF ATTACHMENT TO CLERK’S NOTICE ON PAGE 12

Effective April 1, 2019

Section 522(d) - value of property exemptions allowed to the debtor		
- in paragraph (1)	\$23,675	\$25,150
- in paragraph (2)	\$3,775	\$4,000
- in paragraph (3)	\$600	\$625
- in paragraph (4)	\$1,600	\$1,700
- in paragraph (5)	\$1,250	\$1,325
- in paragraph (6)	\$2,375	\$2,525
- in paragraph (8)	\$12,625	\$13,400
- in paragraph (11)(D)	\$23,675	\$25,150
Section 522(f)(3) - exception to lien avoidance under certain state laws	\$6,425	\$6,825
Section 522(f)(4) - items excluded from definition of household goods for lien avoidance purposes	\$675 (each time it appears)	\$725 (each time it appears)
Section 522(n) - maximum aggregate value of assets in individual retirement accounts exempted	\$1,283,025	\$1,362,800
Section 522(p) - qualified homestead exemption	\$160,375	\$170,350
Section 522(q) - state homestead exemption	\$160,375	\$170,350
Section 523(a)(2)(C) - exceptions to discharge		
- in paragraph (i)(I) - consumer debts for luxury goods or services incurred < 90 days before filing owed to a single creditor in the aggregate	\$675	\$725
- in paragraph (i)(II) - cash advances incurred < 70 days before filing in the aggregate	\$950	\$1,000



PAGE THREE OF ATTACHMENT TO CLERK’S NOTICE ON PAGE 12

Effective April 1, 2019

Section 541(b)- property of the estate exclusions		
- in paragraph (5)(C) - education IRA funds in the aggregate	\$6,425	\$6,825
- in paragraph (6)(C) - pre-purchased tuition credits in the aggregate	\$6,425	\$6,825
- in paragraph (10)(C) – qualified ABLE program funds in the aggregate	\$6,425	\$6,825
Section 547(c)(9) - preferences, trustee may not avoid a transfer if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of property is less than	\$6,425	\$6,825
Section 707(b) - dismissal of a chapter 7 case or conversion to chapter 11 or 13 (means test)		
- in paragraph (2)(A)(i)(I)	\$7,700	\$8,175
- in paragraph (2)(A)(i)(II)	\$12,850	\$13,650
- in paragraph (2)(A)(ii)(IV)	\$1,925	\$2,050
- in paragraph (2)(B)(iv)(I)	\$7,700	\$8,175
- in paragraph (2)(B)(iv)(II)	\$12,850	\$13,650
- in paragraph (5)(B)	\$1,300	\$1,375
- in paragraph (6)(C)	\$700	\$750
- in paragraph (7)(A)(iii)	\$700	\$750
Section 1322(d) - contents of chapter 13 plan, monthly income	\$700 (each time it appears)	\$750 (each time it appears)
Section 1325(b) - chapter 13 confirmation of plan, disposable income	\$700 (each time it appears)	\$750 (each time it appears)
Section 1326(b)(3) - payments to former chapter 7 trustee	\$25	\$25



By: Lorraine Adam

SOUTHERN DISTRICT OF FLORIDA BANKRUPTCY OSCARS

Featuring: Transferred and Foreign Cases

*Date range for collected data: January 1, 1990 through January 31, 2019.

State to where Most SDFL
Cases were Transferred

Furthest Country From Which
an Ancillary/Ch. 15 Case
Originated



The Most Publicized
Transferred Case



SDFL Division with the Most
Transferred IN Cases

Furthest State from which a
case transferred to SDFL

AND THE BANKRUPTCY OSCARS GO TO...

Florida Middle District has received 75 cases originally filed in Florida Southern District. Illinois received the second highest at 24.

Section 304 Ancillary Case No. 03-27953-PGH, travelled the furthest (10,181 miles) from an Australia court. While Chapter 15 Case No. 11-21437-AJC originated from 8,134 miles away in a South Africa court and Chapter 15 Case No. 16-17143-AJC from a court in Israel travelled 6,630 miles. All three cases are currently closed.

Madoff Securities International Limited (Case No. 09-16751-PGH) was filed as a Chapter 15 in SDFL on April 14, 2009 and transferred to New York Southern District on May 8, 2009.

The WPB Division has received 51 transferred in cases, Ft. Lauderdale division has received 34 cases, and Miami division has received 22 cases.

Cases from the bankruptcy court in Hawaii transferred the furthest, both into and out of the Southern District of Florida. The Miami division transferred a case to Hawaii bankruptcy court (4,862 miles) under Case No. 06-16964-AJC and the West Palm Beach division received a case in from the Hawaii bankruptcy court (4,854 miles) under Case No. 10-48548-PGH.



FLORIDA SOUTHERN BANKRUPTCY MORTGAGE MODIFICATION MEDIATION STATISTICS

(From April 1, 2013 through March 31, 2019)

	MIA	FTL	WPB	TOTAL
MMM Motion (Attorney Rep.)	7160	4822	2647	14629
MMM Motion (Pro Se)	82	39	23	144
Total Motions Filed	7242	4861	2670	14773
Order Granting MMM Motion	6348	4181	2250	12779
Final Report of Mediator	5354	3325	1725	10404
Mediation Agreement Reached	2381	1553	844	4778

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

	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	
MIAMI													
2013				18	82	106	137	130	173	181	169	141	1137
2014	171	157	184	179	170	164	156	126	198	146	123	137	1911
2015	161	168	189	183	142	165	127	122	127	108	93	93	1678
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	65	44	52	39	39	605
2019	57	39	48										144
													Total = 7246
FT. LAUDERDALE													
2013				49	92	98	116	144	189	118	97	77	980
2014	91	82	69	108	89	89	106	103	99	100	121	95	1152
2015	96	100	109	89	94	96	82	74	93	89	91	79	1092
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	61	28	33	26	21	393
2019	34	20	31										85
													Total = 4778
WEST PALM BEACH													
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	56	48	39	35	35	33	36	530
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	25	24	25	13	12	218
2019	22	20	13										55
													Total = 2617

UPCOMING COURT HOLIDAY CLOSINGS *

Monday, May 27 - Memorial Day ♦ Thursday, July 4 - Independence Day ♦ Monday, September 2 - Labor Day
 Monday, October 14 - Columbus Day ♦ Monday, November 11 - Veterans Day
 Thursday, November 28 - Thank giving Day ♦ Wednesday, December 25 - Christmas Day

*Any additions to the court closing schedule will be announced by General Order and posted on the court website <http://www.flsb.uscourts.gov/general-orders>

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 “COURTHOUSE BEACON NEWS” PUBLICATION STAFF

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

Debbie_Lewis@flsb.uscourts.gov

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

Visit the court website www.flsb.uscourts.gov for local filing information.

Thank you.

Miami: (305) 714-1800

Ft. Lauderdale: (954) 769-5700

West Palm Beach: (561) 514-4100

Please Note:

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