



CHIEF JUDGE'S CORNER —

THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME

By: Hon. Laurel M. Isicoff

When I wrote my April article for the Courthouse Beacon News, I wrote that “none of us had any idea how much our world would change so quickly.” Little did I know then that four months later, the suspended world which we entered so quickly would not really have changed much. Conferences, vacations, hearings, trials, have all be canceled or made virtual. Even the judges now know how to “zoom” with the best of them. While it would be better to have “live court,” especially because so much of bankruptcy is collaborative, we need to find new ways to connect, negotiate, and compromise. Perhaps now that we cannot be together, more of us will rely less on email and texts and more on phone calls and video chats.

We are all very fortunate that, with technology, we have been able to continue to work. The judges and the rest of our court family continue to address the needs of the court and of the public to make sure that access to the court is not compromised, even if physical access is not currently available. We had hoped that we would be able to reopen at the beginning of July, but, unfortunately, with South Florida numbers increasing, we cannot reopen yet. We continue to monitor the situation, but we will not do anything to compromise your safety or that of the bankruptcy court family. Meanwhile, please note that anyone entering any of the courthouses (including in West Palm Beach) must be wearing a mask.

Unfortunately, not every business was able to continue to operate and, as a consequence, many have started to fail. While we have had some uptick in chapter 11 filings in the Southern District of Florida, most of the large cases are being filed in New York, Delaware, and even Texas. However, every bankruptcy court in the country is preparing for the tsunami of new cases that will be coming. The only reason that, up to now, our filings haven't started to climb precipitously is due to the moratorium on evictions and foreclosures. But, as they say, “winter is coming,” so now is a good time to spruce up your forms (many of you continue to use outdated forms including old chapter 13 plans and old discovery motions and responses – relying on archaic objections that are no longer allowed under the Federal Rules of Civil Procedure), clean out your files, and get ready. There is also a plethora of, mostly free, bankruptcy CLE available on-line. Take the time to brush up on the Small Business Recovery Act, the temporary changes to the Bankruptcy Code contained in the CARES Act, and technology changes and advances (remember that Florida now requires a technology CLE during your reporting cycle).

BUT it isn't all COVID. By now, you will have reviewed (and hopefully commented on) the new Local Rules. Judge Mora and Jeff Fraser, as chairs, led a hard-working committee who spent almost a year revising our rules. The judges then spent several weeks reviewing and commenting on those changes. And we decided to keep some of the procedures we put into place during the closure, including a complete revamping of the way exhibits are exchanged and filed. There are many changes to the way you have been doing certain things, so please take the time to familiarize yourself with the new Local Rules and new forms when available.

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Bankruptcy Cases Filed From 01/01/20 to 07/31/20

TOTAL FILED:	8,463
• Chapter 7	5,204
• Chapter 9	0
• Chapter 11	130
• Chapter 12	1
• Chapter 13	3,124
• 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”](#)

**Chief Judge's Corner - The more things change, the more they stay the same** (continued from page 1)

We are all very excited to welcome the newest member to our bankruptcy bench, the Hon. Peter D. Russin. Please see Judge Russin's Press Release on pages 8-9. While we had hoped he would be seated earlier, the pandemic shut down and slowed down a lot of things. Judge Russin will occupy a chamber and courtroom in Fort Lauderdale. An "official" investiture ceremony will be scheduled at a later date. While Judge Russin's background was pending, we were very fortunate that Judge Hyman agreed to cover the Broward calendar with Judge Grossman. Thank you again, Judge Hyman for doing this.

As always, keep checking the bankruptcy court website for updated information. I look forward to REALLY seeing you all again, but in the meantime, see you "on the zoom."

Take care, stay safe, and stay masked when you aren't home or in your car.

CORONAVIRUS RELATED INFORMATION FOR THE PUBLIC

Our court continues to take whatever steps are necessary to assist in ensuring reduced risk of any potential spread of this virus. In addition to the items posted below, please visit the court website: www.flsb.uscourts.gov for all public notices and administrative orders posted by the court in order to keep current with future updates and new notifications. For U.S. District Court, Southern District of Florida information on this topic, please visit that court's website at www.flsd.uscourts.gov.

The Bankruptcy Court remains closed to in person visits from the public. Additionally, until further notice or unless directed otherwise, the Court is continuing to ONLY hold telephonic (or, when applicable, video) hearings in all pending cases. See [Administrative Order 2020-07 Re: I\) Temporarily Closing Clerk's Office Intake to the Public; and II\) Expanding Filing Options for Self-Represented Parties During COVID-19 Outbreak](#) and subsequent Administrative Orders and notices.

GENERAL PROCEDURES FOR HEARINGS BY VIDEO CONFERENCE :

https://www.flsb.uscourts.gov/sites/flsb/files/documents/judges/General_Procedures_for_Hearings_by_Video_Conference.pdf

Individuals not represented by counsel will be permitted to use court telephonic services FREE of charge. Amended pricing is now available for other users. All attorneys shall advise their clients NOT to appear at the courthouse. Information regarding names of telephonic service providers and contact information for each judge and information regarding pricing in this court is posted in notices on the court website.

The U.S. Trustee Program has extended telephonic or video section 341 meetings to cases filed through October 10, 2020

<https://www.flsb.uscourts.gov/news/us-trustee-program-extends-telephonic-or-video-section-341-meetings-cases-filed-through-october>

Please visit the following U.S. Federal and Florida state websites for updated information about Coronavirus:

Center for Disease Control:

www.coronavirus.gov

Florida Department of Health websites for Miami-Dade, Broward and Palm Beach counties:

<http://miamidade.floridahealth.gov>

<http://broward.floridahealth.gov>

<http://palmbeach.floridahealth.gov>

INFORMATION ABOUT FACE MASKS: The CDC has advised that facemasks/coverings made at home from common materials available, or at low cost, can be used as a public health measure providing the mouth and nose are fully covered. The covering should fit snugly against the sides of the face so there are no gaps and should be washed after each use. Remember to handle your facemask/covering by the ear loops or ties only and wash your hands often. For more information, visit

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

ONLINE PAYMENT SYSTEM FOR NON ELECTRONIC FILERS COMING SOON TO THIS COURT

The Bankruptcy Court will be implementing an Online Payment System for non-cm filers, using the Pay.Gov interface. Using the online payment system, users will be able to make installment payments, pay filing fees, and pay fees associated with copies of documents using your bank account (ACH). The payment system will be implemented in August 2020.

RECENT COURT ADMINISTRATIVE ORDERS & GUIDELINES

AO 2020-09 [Adoption of Interim Local Rule 9070-1. Exhibits](#) AO 2020-08 [Order Amending Interim SBRA Bankruptcy Rule 1020](#)



FROM THE JUDGES' CHAMBERS



HOW TO PRESENT AN EFFECTIVE SUMMARY JUDGMENT MOTION

By: Hon. Erik P. Kimball

Summary Judgment Applies In Contested Matters

Bankruptcy Rule 7056 incorporates all of Federal Rule 56 for purposes of adversary proceedings, adjusting only the deadline for filing motions for summary judgment. In addition, Bankruptcy Rule 9014 makes Bankruptcy Rule 7056 applicable in contested matters. This means that parties may seek summary judgment on nearly any matter filed by way of motion or application.

Specifically Request Partial Summary Judgment

Parties most often seek summary judgment on entire claims for relief, asking the court to rule that the plaintiff is entitled to judgment or that the plaintiff cannot obtain any relief. But it is rare for the court to grant or deny all relief requested. On the other hand, in most cases some component of the claim is subject to summary judgment. Under Rule 56(a), it is appropriate to seek summary judgment on just one or two elements of a claim, or on just certain facts, so as to eliminate the need to address those matters at trial.

While Rule 56(g) explicitly permits the court to grant partial relief even when it is not requested, the court is not required to do this. One can find many instances where a plaintiff sought summary judgment on an entire count of the complaint and the court denied the motion stating that there were material facts in dispute, naming only a few factual disputes as examples. Such an order is of limited use to the parties. Even where a party thinks it is possible to obtain summary judgment in its favor on an entire claim, it is useful to also ask for partial summary judgment on specific matters.

Present The Motion And Response In The Context Of The Elements Of The Claim

Many motions for summary judgment launch directly into the issues the movant believes are most likely to support relief, without putting the arguments in the context of the claim before the court. When seeking summary judgment on an entire claim for relief, start with the elements of the claim. After presenting the elements by reference to a statutory provision or case law, then address each element one at a time, pointing to evidence in the record in support of or negating that element as appropriate. A plaintiff seeking summary judgment on a claim should build the claim by presenting undisputed evidence in support of each element. A defendant opposing that relief should indicate where the plaintiff failed to supply evidence to support each element, or point to contrary evidence on each element. A defendant seeking summary judgment denying an entire claim should address each element of the claim and indicate why the plaintiff cannot provide evidence to meet its burden. In cases where the parties do not present their arguments in the context of the elements of the claim, I spend a great deal of time placing their arguments in this structure in order to determine whether summary judgment is appropriate. It would be helpful if the original motions and responses already did this.

Do Not File Doomed Motions For Summary Judgment

If you prepare a motion for summary judgment using my suggested framework, organized around the elements of the claim, it may become apparent that you are unlikely to obtain relief absent a trial. Do not file a motion for summary judgment just because there is a deadline and it will delay the pre-trial conference. I typically require full briefing on motions for summary judgment, which is time consuming and expensive for your client and your client's opponent. After you file the briefs, we spend weeks in chambers researching the issues and writing an order. In many cases, it is

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**FROM THE JUDGES' CHAMBERS****HOW TO PRESENT AN EFFECTIVE SUMMARY JUDGMENT MOTION** (continued from page 3)

obvious that motions for summary judgment will be denied. But this does not reduce the court's work, as I typically prepare a detailed order. If you are unable to file a motion for summary judgment that has a reasonable chance of success, consider whether partial summary judgment could be useful to limit issues for trial.

Carefully Cite Appropriate Evidence

Rule 56(c)(3) states that the court need consider only the material cited by the parties. Although the court can consider any evidence in the record, the court is not required to do so. Thus, the failure to cite something, even if it is an exhibit to a brief, could result in an unfavorable ruling.

Read Your Opponent's Brief

In a recent case, a party failed to file an affidavit referenced in a response brief. Even after the opponent clearly noted this in the reply, they failed to seek permission to file the missing affidavit. Because there was no affidavit on file, the ruling did not consider it. If they had simply read the reply, the outcome might have been different.

Limit The Reply To Issues Raised In The Response

The response brief is an opponent's entire presentation on the requested relief. In the reply, do not tilt at windmills by addressing arguments not actually before the court. Likewise, do not use the reply brief to restate all of the primary arguments from the motion itself. In the reply, limit presentation to the issues raised in the response.

KEEP ON SAILING: REFLECTIONS FROM HOME

By: Hon. Robert A. Mark

It's August 6th, my 150th day out of the office. Working remotely and feeling remote. But I have much to be thankful for. As one of my friends shared with me almost four months ago, we are all in the same storm, but we are not all in the same boat. My problems and frustrations are minor. Our family "boat" is small but the seas have been relatively calm. Many are in much rougher seas, some bouncing over large waves of stress from lost income and great fear for what the future holds. It is particularly hard for those living alone and sailing alone.

As I write this, our local infection rate remains dangerously high, too high to safely open our schools. I'm angry and frustrated. Unlike almost all other countries who took precautions and are seeing their numbers decline, the infection rate in the U.S. started rising again last month.

I had an interesting conversation recently with my 36 year-old son, Ari. (By the way, I am extremely thankful that two of my three kids live down here with our four grandchildren.) Ari commented that when Hurricane Andrew devastated South Florida in 1991, our community came together to support each other and to rebuild. He recalls 9/11, and the unified response of our country. Why, he wondered, have we failed to come together in this major health and economic crisis? How did our country become so polarized that health decisions, like mask wearing, became political issues? I wish I had a good answer. I know that we can do better and I hope that his generation will figure out a way to turn things around.

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**FROM THE JUDGES' CHAMBERS****KEEP ON SAILING: REFLECTIONS FROM HOME** (continued from page 4)

I'll end on a positive note. Our court family has been wonderful, and we are functioning effectively. On my cases, Marcy, Jackie, and Corinne, have kept us sailing smoothly through our calendars. Joe Falzone and Chief Judge Isicoff have been extremely diligent and effective leaders during the crisis. Without our strong and responsive IT team, working and conducting court remotely would not be possible. I also praise the lawyers for their cooperation and professionalism. Practicing law remotely is challenging.

It looks like we'll be at sea for several more months. Sail on friends and colleagues. As Jimmy Buffet said in one of his songs, just keep your boat "between the navigational beacons." Stay safe.

Modified Local Rules on the Near Horizon!

By: Hon. Mindy A. Mora

The hard work of the 2019-2020 Local Rules Committee is soon coming to fruition. A final version of modifications to the Local Rules is about to be sent for final approval to the Chief Judge of the U.S. District Court and the Eleventh Circuit Court of Appeals.

These modifications were previewed for the local bar when the Court solicited comments over a thirty-day period that ended on July 2, 2020. Meaningful and helpful comments were made to the proposed local rules, which resulted in certain clarifying changes being incorporated into the draft modifications to the local rules.

There are several areas in which the proposed local rules will impact our current practices. For example, when an adversary proceeding is filed, the clerk of court will send out a notice of status conference, rather than a pretrial conference, as well as an order on the procedures and deadlines set in the adversary proceeding. In advance of that status conference, the parties are obligated to meet and negotiate the terms of a pretrial scheduling order, which must be presented to the court at the status conference.

Another welcome change is the elimination of the obligation to serve a notice of hearing on any attorney or other person that receives the notice of hearing via CM/ECF, along with the associated obligation to file a certificate of service on the notice of hearing. A certificate of service will only be required to reflect service of the notice of hearing on parties or counsel who are not registered CM/ECF users.

Clarifying revisions to other existing rules were also developed, including the rules covering substitution of counsel, the form of orders emanating from a chapter 13 consent calendar, who is required to serve a chapter 13 plan, when and how to respond to a 3002.1 Notice, assertion of privileges, e-discovery requirements, modest relaxation of the Court's wet-ink signature requirements, adequate assurance motions for utility companies, when and how to respectfully remind the court of a pending matter that is fully briefed, and how to file a case as a holder of a power of attorney or as a guardian ad litem.

As judicial chair of the 2019-2020 Local Rules Committee, I thank the members of the Committee for their hard work in identifying the local rules for modification, as well as preparing a report that proposed a draft of those proposed modifications to the local rules, as well as the reasons justifying why the Committee believed those changes are necessary. And a special thanks goes out to chair Jeff Fraser, who was instrumental in organizing the efforts of the Committee and keeping the members on track so that a timely final report was able to be issued to the judges for review and consideration.

Look for the modifications to the Local Rules to become effective sometime during the next calendar quarter!



FROM THE JUDGES' CHAMBERS

**THE SERVICEMEMBERS CIVIL RELIEF ACT:
BANKRUPTCY PROTECTIONS AND BENEFITS FOR SERVICEMEMBERS**

By: Jordan Carter and Catherine Kretzschmar, Law Clerks to Hon. Scott M. Grossman

What is the SCRA?

The 2003 Servicemembers Civil Relief Act ("SCRA") revised and expanded the Soldiers' and Sailors' Civil Relief Act of 1940 (the "SSCRA"), a law designed to protect the civil rights of servicemembers during times of military service. See 50 U.S.C. §§ 3901-4043.

Who Qualifies for SCRA Protection?

The SCRA affords a wide range of protections to the brave men and women engaged in military service. The definition of "military service" under the SCRA extends to full-time active duty members of the five military branches, reservists on federal active duty, and members of the National Guard on federal orders for a period of more than 30 days. *Id.* at § 3911(2).

The protections of the SCRA apply to dependents of servicemembers. *Id.* at § 3955. Under certain circumstances, the SCRA may even extend to third persons primarily or secondarily liable for the servicemember's underlying obligation, such as sureties, guarantors, endorsers, or co-makers. *Id.* at § 3913.

What are the SCRA Protections?

The SCRA's benefits and protections are varied and include, among other things, (i) a six percent interest rate cap on financial obligations incurred prior to military service, *Id.* at § 3937; (ii) the ability to stay civil court proceedings and the right to certain protections in connection with default judgments, *Id.* at §§ 3931, 3932; and (iii) protections in connection with residential lease terminations, evictions, mortgage foreclosures, and installment contracts such as car loans. *Id.* at §§ 3931, 51, 53, 55-56.

Some of the Implications of the SCRA in Bankruptcy

The broad protections of SCRA detailed above apply in bankruptcy cases and all bankruptcy practitioners should be mindful of the benefits and protections the SCRA affords to servicemembers.

Likely the most frequently encountered SCRA limitation involves entry of default judgments. The SCRA limits the ability of the bankruptcy court to enter a default judgment against a service member in an adversary proceeding or a contested matter. See *In re Montano*, 192 B.R. 843, 844 (Bankr. D. Md. 1996) (detailing the applicability of the SSCRA to Fed. R. Bankr. P. 7055 and 9014). Before a default judgment may be entered, a plaintiff must file with the court an affidavit stating whether the defendant is in the military and show facts necessary to support the affidavit. 50 U.S.C. at § 3931. This information can be obtained from the Defense Manpower Data Center's ("DMDC") Military Verification Service. Verification of military status can be researched via the DMDC's website. See <https://www.dmdc.osd.mil/appj/dwp/index.jsp>.

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FROM THE JUDGES' CHAMBERS

**The Servicemembers Civil Relief Act** (continued from page 6)

If the defendant is in military service, the bankruptcy court may not enter a default judgment without appointing an attorney to represent the servicemember. 50 U.S.C. at § 3931. If the military status of the defendant cannot be determined, the court may require the plaintiff to post a bond. If it turns out that the defendant was in military service, the bond is to be used to fund any damages incurred by the servicemember in the event the judgment is set aside. *Id.*

The mandatory six percent interest rate cap on financial obligations incurred prior to military service provides a powerful protection for a servicemember debtor in consumer bankruptcy cases. *Id.* at § 3937; *In re Watson*, 292 B.R. 441 (Bankr. S.D. Ga. 2003). In *Watson*, the bankruptcy court held that the section of the SSCRA mandating an interest rate reduction on a servicemember's obligations once he is called to active duty also mandated a reduction in rate of interest that would be paid on secured claims under the debtor's confirmed chapter 13 plan. *Id.* at 445. The judge in *Watson* found that the lower interest rate of six percent would apply unless and until a party opposing the reduction proved that the servicemember was capable of paying the original interest rate, and only for the duration of the debtor's active military status. *Id.*

Finally, bankruptcy courts have applied the SCRA's powerful tolling provisions even when the interests of debtors and creditors have been affected. See 50 U.S.C. at §§ 3935, 3936; *Anderson v. Dalkon Shield Claimants Trust*, 996 F.2d 716 (4th Cir.1993); *In re Wlaschin*, 260 B.R. 306 (Bankr. M.D. Fla. 2000). In *Anderson*, the court held that SSCRA applied to toll the statute of limitations to file a claim against the bankruptcy estate even after the chapter 11 plan was confirmed. *Anderson*, 996 F.2d 716. The bankruptcy court concluded that even though the SSCRA application necessarily impaired the parties' interest in finality, certainty, and repose, the language of the statute reflected Congress' judgment that such costs were outweighed by the statute's benefits. *Id.* Likewise, in *Wlaschin*, the bankruptcy court determined that the servicemember creditor was entitled to an extension of the deadlines for filing complaints objecting to discharge, complaints seeking exception from discharge, and objections to exemptions, pursuant to section of the SSCRA providing for the tolling of statutes of limitations. *Wlaschin*, 260 B.R. 306.

The SCRA and the benefits and protections it affords to servicemembers should not be overlooked by practitioners in the context of bankruptcy proceedings. As demonstrated in the foregoing cases, the SCRA is a powerful tool, and one that may be utilized to the benefit of servicemember debtors and creditors.



United States Bankruptcy Court
Southern District of Florida
C. Clyde Atkins United States Courthouse
301 North Miami Avenue, Room 321
Miami, Florida 33128



Press Release

Contact: Joseph Falzone,
Clerk of the Court

FOR IMMEDIATE RELEASE

August 14, 2020

Phone: (305) 714-1800

**HONORABLE PETER D. RUSSIN APPOINTED
FORT LAUDERDALE'S NEWEST
UNITED STATES BANKRUPTCY JUDGE**

FORT LAUDERDALE, FLORIDA -- The United States Court of Appeals for the Eleventh Circuit, which appoints all bankruptcy judges in Florida, Georgia, and Alabama, appointed The Honorable Peter D. Russin as a bankruptcy judge for the Southern District of Florida, Ft. Lauderdale Division, on August 14, 2020.

Judge Russin graduated from George Washington University Law School (J.D. 1988) having won the Jacob Burns Prize for outstanding appellate advocacy and the Van Vleck Advanced Moot Court Competition. Judge Russin also interned for the Honorable Lawrence S. Margolis, United States Court of Federal Claims Judge during law school. He received his Bachelor of Arts degree from Tulane University where he majored in History and gradu-



ated with departmental honors (B.A., 1985). Judge Russin practiced in the areas of Bankruptcy and Commercial Litigation from 1988 to 2020, when the Eleventh Circuit selected him to serve as a United States Bankruptcy Judge for the Southern District of Florida.

Judge Russin was a co-founder and shareholder of Meland Russin & Budwick, P.A. since 1993. He routinely represented corporate debtors, secured lenders, creditors' committees and trustees in insolvency proceedings as well as asset purchasers in bankruptcy. He also counseled clients through out-of-court workouts and private debt restructuring. Judge Russin was also a Florida Supreme Court Certified Circuit Civil Mediator. Throughout his career, he has written and lectured extensively on insolvency and commercial litigation topics. Judge Russin is also a past president of the Bankruptcy Bar Association of the Southern District of Florida.

Judge Russin has actively supported numerous charitable institutions having served on numerous boards of trustees and is a past president of Temple Beth Sholom on Miami Beach. He has been married to his wife Andi for over 30 years and they have three sons.



WHERE ARE ALL THE BANKRUPTCIES?

By:
Guest Contributor
William Rule, Ph.D.
Senior Economist,
Administrative Office of
the U.S. Courts



It happened with unnerving speed. One day the economy was chugging along and the next it began shutting down. Within days broad swaths of the American workforce were staying home, and all but essential businesses were closed. Nationally, in the week of March 7, 2020 there were 211,000 initial claims for unemployment, slightly less than the 217,000 average since the beginning of 2019. The next week initial claims ticked up to 282,000, a level not seen in four years. The following week, March 21, initial claims exploded to 3.3 million, far more than the highest level seen since 1967 when the data were first collected.

The experience in Florida largely mirrored the national picture with a slight lag. In the week of March 14, initial claims in Florida, at 6,463, were up about 5% over the previous year's average. The next week, March 21, initial claims jumped to 74,313, about 12 times the prior year's average. In the week of March 28, Florida's initial claims reached 228,500, more than 37 times the prior year average and four times the highest level reached during the Great Recession of 2008-2009.

However, initial claims for unemployment insurance are not the same as the number of unemployed. As the name implies, the number represents the count of individuals first applying for unemployment benefits. Not everyone applying is granted benefits, and people receiving benefits most often resume working after a period of time, dropping off the rolls of benefit recipients.

It would seem that the press focused on initial claims because it was the only employment related data available quickly. The number is reported on Thursday morning of the week following the week of measurement. When the shutdown began, there was a need to quantify the impact on the labor market. The first and only data available quickly was the initial claims report, which, as discussed above, showed suitably dramatic impact. The more relevant concept, however, is continued claims, meaning the number of individuals receiving unemployment benefits. That number is reported for the week prior to the week initial claims are reported.

Nationally, the number of individuals receiving unemployment benefits averaged about 1.7 million from January 2019 through February 2020. In the week of March 14 it ticked up slightly to 1.8 million. The following week it jumped to 3.1 million and in the week of March 28 it reached 7.4 million. Ultimately, the number of unemployment benefit recipients reached 24.9 million in May, nearly 4 times the highest level reached during the Great Recession. While it took 79 weeks for national continued claims to reach its maximum during the Great Recession, it has taken only 8 weeks to reach its maximum (so far) of 24.9 million.

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**WHERE ARE ALL THE BANKRUPTCIES?** (continued from page 10)

Florida continued claims averaged 36,580 from January 2019 through February 2020. Through March 21, that number had moved very little. The next week, however, continued claims in Florida jumped to 98,921, and the following week reached 339,448. Ultimately, continued claims reached 2.2 million in Florida, peaking during the same week as the nation. The peak of 2.2 million was nearly 7 times Florida's Great Recession peak, highlighting the differential impact the shutdown had on travel, tourism and recreation employment in Florida compared to the rest of the country.

Given this disaster in the labor market, many were predicting a flood of bankruptcy filings. Just the opposite has happened. In total, filings were off 14.7% in March as compared to March of 2019. April was off 46.0%, May was off 41.9% and June was down 33.4% compared to 12-months prior. The biggest drops were felt in chapter 13 filings: March off 19.2%, April off 59.2%, May off 64.2% and June off 58.9%. Of course, one needs a source of income to file chapter 13, something most unemployed individuals lack. Chapter 11 cases, perhaps unsurprisingly, proceeded in the opposite direction. March was up 14.2%, April up 17.5%, May up 32.2% and June was up 39.2% over the same month in 2019.

So the question is: Why no flood? The most plausible answer seems to be that the CARES Act worked. All those relief checks (\$1,200 per adult and \$500 per child), combined with the federal \$600 per week kicker on top of local unemployment benefits meant that many households reaped a windfall plus a significant increase in income. Several statistics underscore the impact of these relief efforts. Between March and April aggregate personal income in the U.S. increased by more than \$2 trillion or nearly 11%, a 243% increase at annual rates. Of course, the number of places to spend that money was severely limited by pandemic closures. As a result, the personal savings rate (savings as a percentage of income) skyrocketed from 8.4% in February to 32.2% in April. Previously the highest the personal savings rate seen since the data series began in 1959 was 17.3% in 1975.

Since so many businesses were closed, it appears that consumers took the windfall opportunity to reduce their credit card balances. Between February and April revolving consumer credit fell by \$104 billion. The monthly reductions from March to May (the latest data available) ranked as the first, fourth and fifth largest percentage reductions in revolving credit since it was first reported in 1968.

While these developments are laudable, few observers expect them to last. The stimulus checks were a one-time payment and are unlikely to be repeated. The \$600 federal add-on to local unemployment benefits is set to expire at the end of July and there is considerable doubt about the provision or amount of any extension. The CARES Act provided for an additional thirteen weeks of unemployment benefits beyond local limits, but by early fall those benefits should be exhausted.

All of this suggests that while bankruptcy filings may begin to slowly increase in the coming months, late fall or early winter will most likely see a flood of filings.



NEW REQUIREMENT TO FILE EXHIBITS ELECTRONICALLY

By: Maggie Ferere, Deputy In Charge

Effective May 21, 2020, CM/ECF registered users with full filing privileges must electronically file exhibits via the CM/ECF program link: Evidentiary Exhibits for Trial. [Administrative Order 2020-09](#) implemented this requirement by amending Local Rule 9070-1 as an interim local rule. Limited filers, pro se litigants, and parties not registered as CM/ECF filers must submit exhibits to the Clerk of Court by electronic mail to: ProSeExhibits@flsb.uscourts.gov. Exhibits filed by CM/ECF registered users and emailed by non-registered users must be exchanged and submitted no later than 4:00 pm, four business days before the scheduled trial or evidentiary hearing.

Detailed, step by step instructions for filing exhibits are available here: www.flsb.uscourts.gov

OVERVIEW OF UPLOADING AND FILING PROCESS

- Updated versions of at least one of the following browsers are required:
 - Mozilla
 - Firefox 3.6
 - Google Chrome 6.0
 - Safari
 - Microsoft
 - EdgeOpera 11
 - Internet Explorer 10
- The exhibit upload program link is available under the Bankruptcy and Adversary CM/ECF menus.
- Exhibit pdf documents may not exceed 50 mb each.
- Local form 49 Exhibit Register must be filed in order to file exhibits.
- All exhibits must be numerically identified, e.g., Debtor's Exhibit 1, Plaintiff's Exhibit 1. Alphabetical designations will not be accepted, e.g. Plaintiff's Exhibit A.
- A data input screen will display (see image below) and collect the following information: case number, party filer, description of exhibits, exhibit register, and exhibits to be uploaded.

The screenshot shows a web form with the following fields and labels:

- Case number**: A text input field.
- This filing is on behalf of**: A label for the filer information.
- Brief Description of Exhibits:**: A text input field with the note *(ie - Plaintiff's Exhibits)* to its right.
- Exhibit Index:**: A file selection button labeled "Choose File" and the text "No file chosen".
- Exhibits:**: A file selection button labeled "Choose Files" and the text "No file chosen".

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New Requirement to File Exhibits Electronically (continued from page 14)

- The Browse feature allows for upload of one or more exhibits. In order for multiple exhibits to be included in one filing transaction, ALL exhibits must be saved and stored in the same folder on your computer or shared network drive. Multiple exhibits may be selected for upload using the Ctrl or Shift key method.
- When all PDF exhibits have been selected for upload, a list will display the exhibit name, size, and number.
- When the exhibit number is included in the PDF name, it will automatically populate the exhibit number into the Exhibit Number field. If the name of the exhibit does not contain a number, the number will need to be manually entered. (see image below).

Exhibits: 4 files selected.

Selected Exhibit Files		
File Name	Size	Exhibit Number
Plaintiff's Exhibit 1.pdf	10.01 KB	1
Plaintiff's Exhibit 2.pdf	10.01 KB	2
Plaintiff's Exhibit 3.pdf	10.01 KB	3
Plaintiff's Exhibit 4.pdf	10.01 KB	4

- The process may take several minutes depending on the number and size of exhibits being uploaded. The submission is complete when a Notice of Electronic Filing (NEF) displays. DO NOT logout of CM/ECF or close your browser or navigate away from this page before receiving the Notice of Electronic Filing or the process will terminate, resulting in the exhibits not being uploaded in CM/ECF.
- Sample final docket entry: (See image below)

05/18/2020	9 (5 pgs; 5 docs)	Proposed Exhibits ranging from 1 to 4 . 5 documents attached filed by Attorney John Smith on behalf of Creditor XYZ. <i>Plaintiff's Exhibits</i> (related document(s) 5).
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Implementation of the electronic filing of exhibits allows for more efficient processing of court documents. If you have any questions regarding this new process or suggestions for improving a current procedure, please contact us.



COURT OPERATIONS DURING A PANDEMIC

By: Cameron Cradic, Deputy In Charge

These are unprecedented times. However, our charge remains unchanged. The challenge for us is to move ahead during the coronavirus pandemic (COVID-19), knowing that our actions greatly impact those who need our services.

So, you may be asking yourself, “How does the Bankruptcy Court now do what it needs to do?” Well, as it is especially true during challenging times, we adjusted our daily routines because we have the support and good humor of like-minded souls.

“My favorite barista always wears a face mask. He calls it a coughy filter.”

Together, with input from judicial and steering committees of the United States District Court for the Southern District of Florida, the Bankruptcy Court for the Southern District of Florida, the Office of the U.S. Trustee, the Administrative Office of the U.S. Courts, the Centers for Disease Control and Prevention (CDC), and others, this district continues to closely monitor national and local news related to COVID-19. Before deciding upon any course of action, consideration is given to public and employee safety. Now has become a good time to share with you what drives us. For this reason, our mission statement is reprinted below.

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

Beginning on March 13, 2020, the court issued formal guidance for in-person visits to courthouses for those who may have been exposed to, or have been diagnosed with, COVID-19. This includes those who have been asked to self-quarantine by any hospital or health agency. At the same time this guidance was issued, the court expanded the use of telephonic service providers for all non-evidentiary hearings and Chapter 13 matters. Soon afterward in the same month, based upon increased infection rates, the court expanded telephonic hearings and conferences to include **ALL** matters. The Office of the U.S. Trustee quickly followed suit by rescheduling all in-person 11 U.S.C §341 meetings until further notice.

It was also during this time that the Governor for the State of Florida first declared a state of emergency, the World Health Organization declared COVID-19 to be a pandemic, and the President of the United States declared a national

(continued on page 17)



COURT OPERATIONS DURING A PANDEMIC (continued from page 16)

emergency as a result of an increased national COVID-19 outbreak. However, even before these pronouncements, the court had already laid the foundation for implementing contingency plans during a closure. Specifically, all court staff were set up to telework so that duties would be performed without any interruption to public services, which includes answering incoming calls to court phone lines.

On March 25, 2020, the court entered [Administrative Order 2020-07](#), which had an effective date of March 30, 2020. This order closed the court's doors as a result of the public health emergency. It also provided new protocols to assist non-represented parties. Specifically, non-represented parties are now able to transmit PDF documents to an email address that is monitored by the clerk's office (FLSB-EMERGENCY-FILINGS@flsb.uscourts.gov). Parties have always been able to mail their documents, but AO2020-07 expanded their filing options.

What is this district's bankruptcy filing trends during the COVID-19 outbreak? The chart below shows that new case filings continued to drop as infection rates became better known. In April, the same month when businesses shuttered and the Governor of Florida issued his first Executive Order to suspend statewide foreclosures and evictions, filings plummeted significantly more than the prior month and year. This was expected. With only one exception, in September 2017, filings had not been less than 900 cases since March 2007, which was over 13 years ago. Cases also remained low in May through July in comparison to the prior year, and many attributed this trend to the Governor extending a moratorium on evictions and foreclosures in each of those months.

	2019	2020	% change from prior year
January	1494	1456	-2.5%
February	1267	1402	+10.7%
March	1489	1324	-11.1%
April	1580	816	-48.3%
May	1526	1045	-31.5%
June	1489	1241	-16.7%
July	1487	1179	-20.7%

“Who at the bank wears a mask and approves your mortgage? The Loan Arranger.”

Where are we today? As of August 1, the bankruptcy clerk's office remains closed to in-person visits from the public. On July 29, 2020, the Governor of Florida issued his fourth moratorium on evictions and foreclosures that is set to expire on September 1, 2020. We expect filings to remain lower through this timeframe, and then a sharp rebound is anticipated. We are ready for it, and we will do what we have always done because we are mindful of our mission.

Please check the court website on a regular basis for new information and updates from the clerk of court.

**ADVERSARY IQ QUIZ**

By: Lorraine Adam

- 1) Which of the following do not have to pay the filing fee when filing a new adversary proceeding?**
- (a) American Mortgage Services, Inc. (b) US Department of Veterans Affairs (c) Publix Employees Federal Credit Union
- 2) Which summons is first issued by the court when the plaintiff fails to serve the initial summons on a defendant?**
- (a) Amended Summons (b) Alias Summons (c) Pluries Summons
- 3) Is a summons required to be served on cross-claimants?**
- (a) Yes (b) No
- 4) Written requests to continue a pretrial must be filed....**
- (a) 2 business days before the pretrial conference. (b) 5 calendar days before the pretrial conference.
(c) 5 business days after receiving the summons.
- (5) A Clerk's Entry of Default on an individual is entered when the following 4 criteria have been met: (1) the motion is verified; (2) the motion states the defendant has been properly served with the complaint; (3) the motion states no response has been served on the plaintiff; and (4)....**
- (a) the amount of damages sought is less than \$10,000. (b) the defendant is not a member of the military service.
(c) the defendant filed an answer with affirmative defenses.
- 6) As a defendant, how long is the United States given to file their answer to a complaint?**
- (a) 20 day (b) 45 days (c) 35 days
- 7) Which motion is required to be filed with the court when requesting a jury trial?**
- (a) Motion to Withdraw Reference (b) Motion to Reconsider (c) Motion to Amend Complaint
- 8) What is the deadline for filing a motion for summary judgment?**
- (a) 12 days after receiving a case number (b) 10 days before the pretrial conference. (c) 15 days after the trial has concluded.
- 9) A judgment creditor promptly files this document upon collection of the judgment:**
- (a) Notice of Compliance with Claims Review (b) Satisfaction of Judgment (c) Notice of Payment of Court Ordered Sanction
- 10) If a bankruptcy case is dismissed, what may happen to any pending related adversary proceedings?**
- (a) Judgment is entered in favor of Plaintiff. (b) The main case cannot be closed until the adversary is completed
(c) The adversary case may be dismissed sua sponte.

**ANSWERS TO ADVERSARY IQ QUIZ ON PAGE 18**

Question 1 ~ (b) US Department of Veterans Affairs. When the United States, other than a United States trustee acting as a trustee in a case, initiates an adversary proceeding, either by original process or by removal, no filing fee is due. An agency of the United States is considered the United States for purposes of this exception. Bankruptcy Fee Compendium III (June 1, 2014 Edition, Part G(1)(C)(2)(a))

Question 2 ~ (b) Alias Summons. If service is not achieved with the initial summons, the plaintiff may file a notice of non-service (or similar title) that includes a request for an alias summons. An alias summons is issued first, then, if the process needs to be repeated, a pluries summons is issued, then 2nd pluries, 3rd pluries, and so on.

Question 3 ~ (b) No. Crossclaim defendants are already parties to the original suit. Only new parties are notified via a summons, amended summons, alias/pluries summons, or third-party summonses.

Question 4 ~ (a) two business days before the pretrial conference. Local Rule 7090-1 requires requests to continue a pretrial or trial be made by written motion filed no later than two business days before the pretrial conference.

Question 5 ~ (b) the defendant is not a member of the military service. Local Rule 7055-1 states, in part: *Motions for entry of default shall be verified (sworn under penalty of perjury) and shall state that the defendant has been properly served with the complaint, that no response has been served on the plaintiff, and that the defendant—if an individual—is not a member of the military service.*

Question 6 ~ (c) 35 days. Pursuant to Bankruptcy Rule 7012, the United States or an officer or agency thereof shall serve an answer to a complaint within 35 days after the issuance of the summons.

Question 7 ~ (a) Motion to Withdraw Reference. The *Order Setting Filing and Disclosure Requirements for Pretrial and Trial* (paragraph 1(a)) states that any party requesting a jury trial on any issue in the proceeding is to file a motion to withdraw reference no later than 14 days before the pretrial conference. (See also Local Rule 5011-1)

Question 8 ~ (b) 10 days before the pretrial conference. Paragraph 10 of the *Order Setting Filing and Disclosure Requirements for Pretrial and Trial* states that all motions to dismiss and motions for summary judgment be filed and served not later than 10 days before the pretrial conference and shall comply with Local Rule 7056-1, if applicable.

Question 9 ~ (b) Satisfaction of Judgment. Pursuant to Local Rule 7069-1(E): *Satisfaction of judgment shall be filed with the court promptly upon collection of the judgment.*

Question 10 ~ (c) The adversary case is dismissed. Pursuant to LR 7041-1(B): *The court may, sua sponte, dismiss all adversary proceedings arising in any case which has been dismissed.*

8-10 correct answers = High Adversary IQ
5-7 correct answers = Needs Improvement
1-5 correct answers = Better Luck on the Next Puzzle



QUARANTINE SCAVENGER HUNT

To help break the tedium of being quarantined, Judge Isicoff offered some extracurricular challenges to staff, including a quarantine scavenger hunt for items suggested by staff. Below is a word search puzzle version of Judge Isicoff's live scavenger hunt. Answers are on page 19.

slow cooker
full body exercise ball
any religious text
copper moscow mule cup
king cuban anole

wedding invitation
unpeeled avocado
vinyl record album
cuban coffee maker
wireless portable speaker

waterpic
ladder
cookie cutter
gardening gloves

measuring spoon
bonsai tree
air fryer
orchid

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





MEET LOURDES PAREDES, OUR HUMAN RESOURCES SPECIALIST

By: Jacqueline Antillon, Courtroom Deputy to the Hon. Robert A. Mark

Lourdes, our court's "We can't do it without you" Human Resources Specialist, initially came to work at the bankruptcy court in 2003 as the HR assistant, having previously worked in human resources for twelve years for a private company with over 800 employees, specializing in "Benefits and Worker's Compensation".

In 2012, her position at the bankruptcy court was eliminated due to budget cuts. When she was selected for a position in the financial section at the district court and was able to stay with the federal government, she was overjoyed. However, her true love for and interest in HR never wavered and she kept up with current practices and technology in the human resources field. She was able to renew her HR dedication and passion when she was rehired back at the bankruptcy court in 2019 to replace retiring HR Manager, Lourdes Strong.

Lourdes is knowledgeable when it comes to recruiting, payroll benefits, worker's compensation, employee policies, performance evaluations and most importantly, connecting with people every day. Lourdes takes pride in her job and stated that "when you work in human resources, you have a responsibility to protect both the employee and the institution values". Working under her mentor, Lourdes Strong, she learned a great deal, both personally and professional and was thankful for her guidance as she prepared to take on her new role in our court.

Lourdes hails from "La Isla del Encanto", Puerto Rico and attended Universidad Central de Bayamon. Growing up in Puerto Rico, Lourdes took an affinity to track and field, competing in 100/200-meter races, 4 X 100 relay, 800 meter and high jump, and this commitment assisted in her goal to attend college. Although her mother was a source of inspiration who encouraged Lourdes to participate in track, initially her father was not in favor of her participating in sports. However, during one of the competitions, he was present to witness his daughter win and he realized how special and talented she was. Her father's support meant the world to her, Lourdes considers her accomplishments in track and field just one of her many talents.

In 1985, after moving to the United States, lady luck continued to be on her side - her first job was in human resources, thus fulfilling her enthusiasm toward her goal to help others in this field. She has earned HR certifications from Florida International University and from the University of Miami.

(all about the 🇺🇸🇵🇷)

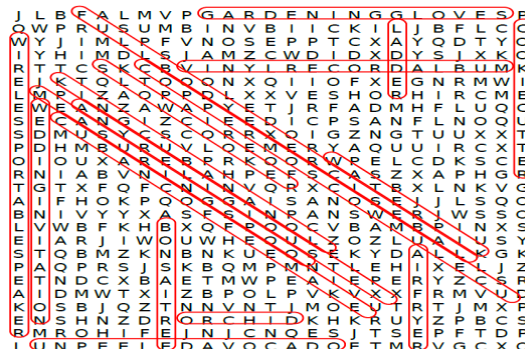
In her spare time, Lourdes loves to organize closets and drawers because she finds it relaxing. She considers this her hobby and has several tips she would be happy to share for those that are interested.

We are thrilled and happy and filled with gratitude that Lourdes is back home where she belongs. She missed us, we missed her. As the saying goes....it might take a year, it might take a day, but what's meant to be will always find its way back! Lourdes would like to share with us her inspiring words, and nicely said "Live simply, laugh often and love deeply".



Lourdes Paredes (left) with her mentor, friend and former court HR Manager, Lourdes Strong

ANSWER SHEET TO JUDGE ISICOFF'S SCAVENGER HUNT FROM PAGE X





FLORIDA SOUTHERN BANKRUPTCY MORTGAGE MODIFICATION MEDIATION STATISTICS

(From April 1, 2013 through July 31, 2020)

	MIA	FTL	WPB	TOTAL
MMM Motion (Attorney Rep.)	7667	5147	2916	15730
MMM Motion (Pro Se)	95	43	26	164
Total Motions Filed	7762	5190	2942	15894
Order Granting MMM Motion	6802	4473	2474	13749
Final Report of Mediator	5786	3563	1925	11274
Mediation Agreement Reached	2533	1709	915	5157

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

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
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	41	48	35	31	42	45	45	35	23	489
2020	35	38	24	20	31	19	8						175
													TOTAL = 7766
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	24	28	20	20	18	25	19	26	19	284
2020	26	13	25	19	22	17	8						130
													TOTAL = 5192
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	28	14	20	27	19	10	31	18	10	232
2020	16	14	18	13	10	10	15						96
													TOTAL = 2945

UPCOMING COURT HOLIDAY CLOSINGS *

Monday, September 7 - Labor Day	Monday, October 12 - Columbus Day
Veteran's Day, Wednesday, November 11	Thanksgiving Day, Thursday, November 26*
Christmas Day, Friday, December 25*	New Year's Day, Friday, January 1, 2020*

*Any additions to the court closing schedule are announced by General Order and posted on the court website

<http://www.flsb.uscourts.gov/general-orders>

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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.