



CHIEF JUDGE'S CORNER

By: Hon. Laurel M. Isicoff

A big change is coming to the Southern District of Florida. Judge Ray will be retiring at the end of this month. He has contributed so much to the bankruptcy community, and, as I will discuss later in this article, so much to me as a lawyer and as a judge. As you also know, we'll be getting a new bankruptcy judge. Judge Ray's successor has been chosen by the Eleventh Circuit, but the candidate's background check is not completed yet. If that process has not finished by the end of this month, Judge Hyman will be handling Judge Ray's calendar beginning on October 1 until Judge Ray's successor takes the bench. Thank you, Judge Hyman!

A reminder about the national diversity symposium – "Pathways to the Federal Bankruptcy Bench" taking place around the country on October 24, 2019. As I previously told you, the program will feature a panel discussion live cast from Washington, D.C. followed by a local roundtable featuring over 20 of our local federal judges. This program is targeted to law students and diverse lawyers who may not realize that a federal judicial position is an attainable goal for anyone who is deserving – irrespective of race, gender, sexual orientation or disability. Registration will open on September 17. Watch the Bankruptcy Court website for further information.

Now back to Judge Ray. I have had the privilege of knowing Judge Ray for almost 30 years. Before Judge Ray took the bench on November 9, 1993, I had several cases with lawyer Raymond B. Ray – sometimes on the same side, and sometimes as an opponent. He was always the consummate professional. While we didn't always agree, we always got along – as professionals always should.



When Judge Ray took the bench, he brought to the bench his same level of thoughtfulness, intellect, and practicality that he demonstrated as a practitioner. In addition to adjudicating the matters before him efficiently and wisely, Judge Ray made a point of always encouraging pro bono contributions by the attorneys before him, and would, on many occasions, pair a willing lawyer with a client in the courtroom. However, the most significant pro bono story took place while I was president of the Bankruptcy Bar Association from 1999 to 2000. A bankruptcy attorney filed approximately ten chapter 7 and chapter 13 cases, trying to help a group of victims who had all been defrauded by the same group of bad actors in a foreclosure "rescue"

scheme. Almost all of the victims were elderly or non-English speakers. All of them had been tricked into signing documents that deeded over their homes when the victims thought they were merely signing documents to retain the perpetrators to represent the victims in efforts to save their homes. The bankruptcy attorney tried valiantly to get law enforcement involved, but in 2000 foreclosure rescue

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Bankruptcy Cases Filed From 1/1/19 to 8/31/19

Total Filed: 11,770

- Chapter 7: 6,659
- Chapter 9: 0
- Chapter 11: 158
- Chapter 12: 0
- Chapter 13: 4,943
- Chapter 15: 10

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](#)"

**CHIEF JUDGE'S CORNER** (continued from page 1)

schemes were apparently not interesting enough to law enforcement – state and federal agencies declined to pursue the matter. But this lawyer needed help; the amount of cases was overwhelming. Judge Ray reached out to me, and I, in turn, reached out to my President-elect at the time, Tom Messana. Tom put together a team of pro bono lawyers, including my then firm, Tom's firm, and a few others. Together we were able to ultimately either recover the homes or get financial compensation for the victims. None of this would have happened without Judge Ray's concern and recognition that the bankruptcy counsel could not accomplish this alone.

When I decided to apply to become a bankruptcy judge, Judge Ray mentored me through the process, providing me with sound advice all the way. And, of course, since I have been on the bench, Judge Ray has continued to be a source of support and mentoring.

I am sure each of us has a Judge Ray story. While his contributions to the bankruptcy community, in general, have been many, his many "micro" contributions have made a tremendous difference for those of us who had had the pleasure and honor of working with him and appearing before him. Thank you, Judge Ray, for your service, to the United States during the Vietnam War, and for your service to the Southern District of Florida as a United States Bankruptcy Judge. We will miss you!

RAYMOND B. RAY – A LIFE OF PUBLIC SERVICE

By: Hon. Laurel M. Isicoff

Judge Raymond B. Ray was born, and grew up in, in St. Petersburg, Florida. After graduating high school in 1961 Judge Ray joined the United States Naval Reserve as an enlisted man and started college. During college, in addition to being active in the Naval Reserve and participating in the Reserve Officer Candidate program, Judge Ray worked full time at the St. Petersburg Times on the night shift. Judge Ray graduated from the University of South Florida in August 1965 with a degree in Business Management and was then commissioned as an Ensign in the U.S. Navy. Judge Ray served with the United States Navy from 1965 through 1968 in the Vietnam theater - both at sea and inland.

Judge Ray started law school in March of 1969 at the University of Florida. During law school, Judge Ray continued to be active in the Naval Reserve serving as a staff Instructor at Naval School Command, Newport, Rhode Island during summer breaks. In addition, while at the University of Florida, Judge Ray received a Healthcotte Scholarship and worked as a teaching assistant.

Immediately following law school graduation in 1971, Judge Ray was appointed as an Assistant U.S. Attorney, Southern District of Florida in the Miami division. However, upon entering private practice in 1973, Judge Ray moved to Fort Lauderdale. Judge Ray practiced law in Fort Lauderdale for over twenty years, including ten at his own firm. During his twenty years of private practice, Judge Ray took many pro bono cases through Broward Lawyers Care. Active in all levels of bar associations, Judge Ray was one of the founders of, and one of the first presidents of, the Federal Bar Association of Broward County.

Judge Ray was appointed to the bankruptcy bench on November 9, 1993, where he has served with distinction. However, after almost sixty years of service to our country, Judge Ray has finally decided to spend a little more time on his other interests such as travel and golf. I am confident that Judge Ray and his wife, Terry, will take some time, for those enjoyments and just a little R & R. Thank you, Judge Ray, for your service to our country.



PRO BONO CORNER

By: CHIEF JUDGE LAUREL M. ISICOFF

You are all champions of access to justice – whether acting as an attorney pro bono, or helping with some of our pro se programs such as the almost weekly pro se clinic, and our new Help Desk. I want to thank you all for your contributions – they do make a difference, both to the public we serve and to the courts. This quarter I want to give a special shout out to all of our volunteers – you can find their names on the court website at the following link:

<https://www.flsb.uscourts.gov/node/290>

If you DON'T see your name there, and you have taken a pro bono case, mentored a pro bono volunteer, or contributed to the clinic or the Help Desk, please let me know; we will make sure your name is added!

I also want to give a truly heartfelt thank you to the members of the Bankruptcy Court's Standing Committee for Pro Bono – Peter Kelly of P.W. Kelly Associates, P.A.; Jessika Graham of Tabas & Soloff, P.A.; Eric Silver of Stearns Weaver et al; Ariel Sagre of Sagre Law Firm, P.A.; Tom Messana of Messana PA; Karen Ladis of Dade Legal Aid; Kim Enright of Palm Beach Legal Aid, Chanel Winter of Legal Aid Service of Broward County; Carolyn Fabrizio of Florida Rural Legal Services; Steven Newburgh of McLaughlin & Stern, PLLC; Jon L. Martin; Matt Bayard of Legal Services of Greater Miami; Grace Robson of Markowitz, Ringel, Trusty Hartog, P.A.; Kristina Gonzalez of Kingcade Garcia McMaken; Judge Mindy A. Mora, and Clerk of Court Joe Falzone. They, and many others, have spearheaded many projects to assist those of you who wish to help those who cannot help themselves. If you would like to participate in the Pro Bono Committee or any of its programs or clinics, please contact me or any of the members.

On August 14 the Bankruptcy Bar Association of the Southern District of Florida, together with the Federal Bar Associations of the Southern District of Florida, Broward County, and West Palm Beach, with the support of the District Court and the Bankruptcy Court, put on a program on Domestic Violence and how and why federal court practitioners can and should help. Over eighty attorneys attended live or by live cast at four locations ranging from Miami all the way to Fort Pierce. Jennifer Bullock, executive vice president of Women in Distress, spoke about how domestic violence and abuse show up in federal courts, how practitioners can spot signs of domestic violence and abuse, and how lawyers can help. Alane Becket, current president of the American Bankruptcy Institute, flew from Pennsylvania to speak about emotional abuse through financial control, including through the use of secret debt or secret bank accounts opened in the abused's name but without his or her knowledge. All of this can drive the abused into financial ruin, make the abused ineligible for chapter 13 due to high debt limits, and create misimpressions regarding the abused's veracity due to the failure to disclose information that the abused truly does not have. Bankruptcy practitioners, trustees, and judges need to have an understanding of these dynamics, as these issues may paint a different picture than that which appears on the surface.

Don't forget that Pro Bono Week will be coming up at the end of October. Keep an eye out for programming and events. And, as always, if you know of someone deserving of the Chief Judge's Pro Bono Award, please nominate him or her by the deadline of September 30, 2019. The link to Nomination information on the bankruptcy court website is

<https://www.flsb.uscourts.gov/node/290>

If you don't have a pro bono case, or you haven't identified a project for which you would like to volunteer, contact me or any member of the Pro Bono Committee and we will make sure you are signed up!

*I will never reject, from any consideration personal to myself,
the cause of the defenseless or oppressed, . . .*

The Oath of Admission to the Florida Bar



FROM THE JUDGES' CHAMBERS



STUDENT LOAN MODIFICATION PROGRAM

By: Hon. Robert A. Mark

Student loan debt is a major problem in our country. There are over 44 million Americans with student loan debt totaling 1.5 trillion dollars, nearly double the total amount of credit card debt. Discharging student loan debt in bankruptcy is extremely difficult. Section 523(a)(8) of the Bankruptcy Code requires proof that excepting the debt from discharge would impose an undue hardship on the debtor.

The Eleventh Circuit has adopted the Brunner test that requires a debtor to prove

- (1) that based on his or her current income and expenses, the debtor cannot maintain a minimal standard of living for himself or herself and his or her dependents if forced to repay the student loans;
- (2) that the state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and
- (3) that the debtor has made good faith efforts to repay the loans.

In *re Acosta-Conniff*, 686 F. App'x 647, 648 (11th Cir. 2017) citing *Brunner v. New York Higher Educ. Servs. Corp.*, 831 F.2d 395 (2d. Cir. 1987). Because of this difficult standard, we see very few cases in which debtors are able to prove undue hardship and discharge their student loan debt.

Many debtors and their lawyers conclude that efforts to except their student loan debt from discharge would be futile and instead pursue repayment options offered by the Department of Education ("DOE"), including some programs referred to as income-driven repayment plans ("IDR Plans") that calculate the monthly payment based on the debtor's income. However, determining what programs are available and obtaining the appropriate application forms is not easy. To facilitate the process, the bankruptcy court for the Middle District of Florida has authorized implementation of a program in its June 10, 2019 Administrative Order Prescribing Procedures for Student Loan Modification Program.

The purpose of the program is to create a forum for debtors and lenders to discuss and hopefully reach agreement on a repayment option. The same company that developed the software for the Mortgage Modification Mediation Program developed software called Student Loanify. The software prepackages the consolidation and repayment applications for government-backed student loans and uses a portal to communicate with the DOE or its servicers (the "Creditor").

The software will give the debtor repayment options under the nine different repayment programs the DOE offers to student loan borrowers. As contemplated, the Creditor will have 30 days from receipt of the debtor's application package to determine and advise the debtor of his or her eligibility for any of the programs and to notify the debtor if any additional or corrected documentation is necessary.

If the debtor is offered and accepts an IDR Plan, the debtor may include the monthly payment under the plan as a separate payment in a chapter 13 plan. This will work as long as the other unsecured creditors are still receiving their pro rata share of the debtor's projected disposable income.

As of this writing, the Middle District has not yet implemented the program and there may be changes in the procedures. In our district, I am chairing a committee to recommend adoption of a similar program. Stay tuned. If these programs are as successful as the Mortgage Modification Mediation programs, many more debtors with significant student loan debt will improve their chances at relief through the bankruptcy process.



FROM THE JUDGES' CHAMBERS



TIPS FOR IMPROVING YOUR PRACTICE BEFORE THE COURT

By: Jennifer Rolph, Judicial Assistant to Judge A. Jay Cristol

The members of staff in a bankruptcy judge's chambers include the Courtroom Deputy Clerk (calendar clerk), the Judicial Assistant (JA), and the law clerk. Some judges choose to employ two law clerks in lieu of one law clerk and one judicial assistant. Chambers staff are presented with many time demands including case management, the processing of proposed orders and the preparation of memorandum opinions following trials or evidentiary hearings on substantive issues. In addition, Courtroom Deputies and some law clerks are required to be present in the courtroom whenever a hearing is in session, and judicial assistants and law clerks share secretarial and clerical tasks for the judges.

Along with the responsibilities of chambers duties, chambers staff must communicate daily with attorneys and their staff regarding special requests to expedite the processing of orders, or the setting of hearings, or inquiries about the status of an order. Procedural questions are also common. In this article, I address the common mistakes and bad practices of lawyers appearing before the Court.

First and foremost, the Court makes its Local Rules available online at www.flsb.uscourts.gov. It is strongly suggested that attorneys and their staff consult the Local Rules before contacting chambers with procedural questions.

Timely submission of orders is crucial. Submission of orders is governed by Local Rule 5005-1(G). Specifically, this rule directs that any ex parte motion should be accompanied by a proposed order submitted in accordance with the court's "Guidelines for Preparing, Submitting and Serving Orders." Further, Local Rule 5005-1(G)(1)(c) states that "The prevailing party in a hearing or trial shall submit a proposed order...conforming to the decision of the court, not later than 4:30 p.m. on the seventh day following the hearing or trial." Despite this clear directive, chambers staff frequently receive proposed orders for matters which were heard weeks, months, even years ago. I have received proposed orders from matters heard as far back as five years ago. Generally, these orders are discarded and counsel is directed to file a renewed motion, whether or not the original motion was heard and granted. Just recently I received an order from a hearing that took place six weeks ago. The order was submitted at 9:30 p.m. and the attorney called chambers at 8:30 a.m. the next morning asking to have that order signed and docketed prior to a 9:00 a.m. hearing. Obviously, that is not an acceptable practice.

In countless times, judges have heard matters for which no order is timely presented for entry. Rather, a practitioner will upload an order days later - and then expect special attention from chambers and the clerk's office to get the order processed according to their time-frame or deadline. For instance, a motion to sell a homestead is heard and granted on the chapter 13 calendar. Two weeks later, a paralegal or secretary will call chambers frantically trying to get an order entered because "we have a closing tomorrow." An emergency motion to reinstate a case is heard and granted, but no order is timely submitted for entry. When an order is finally submitted, chambers receives a frantic phone call requesting the order be expedited because "we have a foreclosure sale tomorrow." Similarly, an attorney or paralegal will contact the Courtroom Deputy for an emergency hearing on a motion to reinstate because "we have a foreclosure sale tomorrow." More often than not, these calls come in late in the afternoon, with the parties hoping to stop a sale the very next morning. Often, these last-minute requests simply cannot be accommodated.

With the Court now using CourtCall for telephonic appearances, practitioners need not contact the Courtroom Deputy to appear telephonically. As a general rule, telephonic hearings should be scheduled with CourtCall at least 2 business days prior to the scheduled hearing, although some judges do allow CourtCall appearances if the attorney schedules same by 6:00 p.m. the day prior to the scheduled hearing. Despite this, Courtroom Deputies frequently receive last minute requests for telephonic appearances on the day of a hearing. CourtCall will not accommodate these last-

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**FROM THE JUDGES' CHAMBERS****TIPS FOR IMPROVING YOUR PRACTICE BEFORE THE COURT** (continued from page 5)

minute requests and requires special permission from chambers staff. This requires either the CourtCall representative or the practitioner to contact chambers for approval right before a hearing. Planning ahead will avoid this interruption to chambers staff as they prepare for the day's scheduled hearings. Certain motions can be self-calendared for hearing by the e-filer practitioner. Courtroom Deputies set aside certain "time-blocks" for the setting of self-calendared matters. Attorneys should be mindful to set a hearing on only one-time block. If they have scheduled a hearing at 10:30 a.m., they should not then reschedule the hearing for later that same day to accommodate their schedule. File a motion to continue the hearing, or contact the Courtroom Deputy if an issue arises.

Proofreading is key! Check the details before submitting orders for entry. Does the electronically submitted order have the required four-inch top margin? Is the case number correct? Is the judge designation correct? Does the case style reflect the proper division of the Court? Does the order state the specific ruling of the Court? A proposed order should be titled with the Court's ruling whenever possible, e.g., Order Granting, Order Denying, Order Sustaining, Order Overruling.... Entitling a proposed order "Order on ..." does not make obvious the ruling of the Court requiring case administrators to read and interpret the entire order to determine the ruling before docketing the court paper.

Use the Local Forms available on the Court's website for any motions and orders for which Local Forms are available. These forms were prepared and are provided specifically to streamline practice for both attorneys and court staff.

Be aware of special requirements for pro se debtors. Many of the negative notice provisions are not permitted in cases where the debtor(s) appear pro se.

Attorneys and their employees should educate themselves on the common rules of service. Frequently, Motions to Avoid Liens do not have adequate service under FRBP 7004. Another common error is the failure to serve an individual debtor with a Motion for Relief from Stay, whether or not said debtor is represented by counsel (Local Rule 4004-1).

Prior to any trial or evidentiary hearing for which evidence is submitted to chambers on a thumb drive, be certain that you have clearly labeled the thumb drive with the case name, number, and party submitting the thumb drive.

Attorneys - be available to your clients. Communicate with your clients regarding whether they need to come to Court. Make them aware that the clerk's office and the location for the §341 Meetings are in two different buildings. Countless times, I have witnessed debtors grasping their 341 Meeting notices and wait outside the courtroom when there is no hearing scheduled, or stand baffled in the building's lobby asking for assistance from court security officers. When confronted, they are often non-English speakers, do not understand the 341 notice, and are unaware that they are in the wrong place and in danger of missing their 341 meeting and having their case dismissed for failure to appear. I have also had tearful debtors outside chambers in anguish over having their case dismissed, or because an aggressive condo association is threatening immediate action against them, frequently lamenting, "I can't get a hold of my attorney" or "My attorney won't return my calls."

Please remain mindful that the Bankruptcy Court exists to provide a service to the public. As members of the bar, your contribution to assisting the Court in providing the best service possible is tantamount to a successful and rewarding practice. As Judge Isicoff likes to remind legal professionals: "Always remember that law is a profession, not a job."



FROM THE JUDGES' CHAMBERS



AFTER THE TRIAL: WHEN THE WORK HAS ONLY BEGUN

By: Emily R. Stone, Esq., Law Clerk to Chief Judge Laurel M. Isicoff

You have spent months preparing for and presenting a trial. You and your opposing counsel prepared witnesses, orders of proof, argued your case, admitted many exhibits during the course of a hard-fought trial. At the conclusion of closing arguments, the Court requests that each side prepare its own memorandum of proposed finding of facts and conclusions of law. How should you go about drafting the ideal proposed set of factual findings and legal conclusions? The answer is simple: be complete.

Drafting comprehensive (and helpful) proposed factual findings and legal conclusions requires the lawyer to put himself in the Judge's seat and think about how to logically write the kind of opinion that is helpful to the Judge. This starts by including all of the case law and statutes on which you rely and a clear analysis that explains why that caselaw supports your proposed legal conclusions.

Don't leave the judge guessing when it comes to the facts. Memoranda require citations to the record for EACH and EVERY statement of fact. It is incredibly important that the Court can easily identify the exhibit or testimony upon which your proposed facts are supported. Citations should be pinpoint, if possible, and include applicable page, paragraph, and line numbers. If a party submits proposed finding of facts and conclusions of law without the necessary cites, not that it is not helpful to the court, but it can create a major time delay for the Judge ruling on your case.

Judge Isicoff recently amended her evidentiary hearing scheduling orders to adopt Judge Kimball's language about the submission of proposed memorandum opinion at the conclusion of trial. The revised scheduling orders state: "If and to the extent any statement of fact in the proposed findings of fact is not supported by a specific reference to documentary evidence admitted or testimony given at the trial, the Court may disregard such statement of fact and the submitting party shall be deemed to have waived the right to rely on such statement of fact for all purposes in this contested matter." Make sure to put in the extra time so your post-trial memoranda are in great shape.

"THE MAN BEHIND THE BENCH"

By: Betty Robaina, Judicial Asst. to the Honorable Raymond B. Ray

This is how I would describe the Judge that I have had the pleasure of assisting for almost 27 years. Fair, Honest, and Compassionate.

Since his appointment on November 9, 1993, Judge Ray has handled a total of 107,567 cases and in all 107,567 cases, he has always been able to sympathize with debtors and give them a chance, whenever he could do so. He is always prepared, diligent, and thorough. He has the right "Judicial Demeanor." As a colleague, he is always willing to handle Emergency matters for other judges.

I have watched how well he has mentored, taught, and advised his law clerks and interns over the years, both professionally and personally, taking an interest in each and every one.

He has been my mentor as well, and he has taught me more lessons than I can list, but mostly, he has taught me to "put EVERYTHING in writing!" A lesson that has come in handy more than once.

I can already hear Judge Ray saying "You Are Repeating Yourself!", so I will end with this final thought.

I admire and respect him as a Husband, Father, Judge, and Friend.



Some of RBRs former and current law clerks from left to right: Mindy Kubs, Nathalie Cadet-James, Tarek Kiem, Isaac Marchushamer, Patrick Dorsey, Ashley Dillman-Bruce, and Adam Gilbert (current law clerk)



THE SOUTHERN DISTRICT OF FLORIDA'S JUDICIAL EDUCATION INITIATIVE—FLORIDA CIRCUIT COURT JUDGES AND BANKRUPTCY LAW

By Guest Contributor Steven Newburgh, Esq.



On August 6, 2019, The Hon. Mindy A. Mora and I were honored to serve as faculty for the 2019 Annual Education Program at the Florida Conference of Circuit Judges in Naples, Florida. The Florida state court judges were treated to an engaging presentation, if I may say so myself, focused mainly on issues encountered in foreclosure proceedings, with questions from the audience of judges. Many of the judges attending had never heard of a “Two-Year Bar Order” or knew that Florida Statute § 702.12, made effective October 1, 2018, may result in a debtor losing the right to raise affirmative defenses in a foreclosure proceeding pending in state court where the debtor/defendant previously filed a statement of intention in a bankruptcy proceeding signifying “surrender” of that same property. Given that codification of the Failla decision (*Failla v. Citibank, N.A. (In re Failla)*, 838 F.3d 1170 (11th Cir. 2016)) through Fla. Stat. § 702.12 was largely the product of contributions by a task force chaired by Judge Mora established by the Business Law Section of The Florida Bar, our Florida judges had an opportunity to explore this statute with one of its authors.

Judge Mora and I were invited to serve as faculty at the Naples Conference by 15th Judicial Circuit Court Judge, Meenu Sasser, following a similar presentation given by Judge Mora and I to the 15th Judicial Circuit’s judges. Judge Sasser and the state court judges recognized the interconnection between the state courts and the bankruptcy courts, and, therefore, the importance of providing Florida’s state court judiciary with a knowledge base to address issues that arise every day in their courtrooms and which implicate the Code and the rules under which it functions. Unfortunately, Judge Sasser passed away before the Naples Conference. Judge Sasser was the first Asian-American state court judge in Florida, was an ardent supporter of judicial education and was involved in many state-wide projects to provide continuing education to the state court judges. Judge Sasser was highly revered by both Bench and Bar. In December of 2017, The Palm Beach County Bar Association reported that for the third consecutive year, Judge Sasser received the highest number of positive responses in the Bar Association’s annual Judicial Survey.

This recent presentation in Naples by Judge Mora and I is part of the Bankruptcy Court’s District-wide initiative to provide meaningful bankruptcy law and procedure education to Florida state court judges. Over the course of the last year, many of the bankruptcy judges in the Southern District of Florida conducted workshops and seminars for the Florida state court judges in Broward, Miami-Dade, and Palm Beach counties. Those workshops will continue, next year, and will be offered periodically in the future.

Questions most commonly asked by state court judges involve the automatic stay and the universe of section 362’s subsections, such as the effect of a bankruptcy filing on proceedings involving joint tortfeasors, the impact of the stay on co-defendants, and how bankruptcy impacts divorce proceedings. Questions from the judges also included dischargeability issues encountered in criminal proceedings, such as the exact wording of restitution orders and how that wording may affect an order of restitution and questions relating to the bankruptcy discharge itself (requiring explanation of the discharge injunction and a discussion of concurrent jurisdiction).

The bankruptcy judges and practitioners of the Southern District of Florida will continue to provide the state court judges within our District meaningful and practical workshops and other educational programs to assist the state court judiciary when faced with legal and procedural issues relating to bankruptcy.

**LAWYERS ADVISORY COMMITTEE**

By: Guest Contributor Leyza F. Blanco, Chair Lawyers Advisory Committee



The Lawyers Advisory Committee (LAC) for the Southern District of Florida Bankruptcy Court was formed in 2018 to provide a forum for communication, feedback, and resources between the judges and the bar. Its purpose includes regularly soliciting the bar for commentary regarding bankruptcy practice and receiving requests from the court to consider issues arising from the practice of law before the Court.

The LAC may recommend changes in the practice and procedures throughout the district and also acts as a liaison between the Court and the practitioners. In addition, the LAC is charged with the development, implementation, and maintenance of bankruptcy-related programs in the district as requested by the Court. To view samples of issues addressed by the LAC, please visit the LAC web page at: <https://www.flsb.uscourts.gov/lawyers-advisory-committee> to view meeting minutes.

The LAC is only as successful as the bankruptcy bar makes it. We are dependent on you to contact LAC members with any concerns or suggestions that you might have about bankruptcy practice in our district. The success of our bankruptcy practice in the Southern District of Florida is our absolute priority. If you have any recommendations which will improve the Court's administration of justice, please reach out to a member of the LAC or contact us at LAC@flsb.uscourts.gov. We encourage you to participate by submitting feedback for consideration and assist the LAC in making our bankruptcy practice in the Southern District of Florida the best it can be.

BANKRUPTCY RULES AND FORMS ARE AMENDED EFFECTIVE 12/1/19

Amendments to the federal rules and forms scheduled to take effect 12/1/19 and can be reviewed at the U.S. Courts website at these links:

<https://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>
<https://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments/pending-changes-bankruptcy-forms>

If any of the above amendments necessitate changes in this court's local rules, local forms, court guidelines, clerk's instructions or any other local documents, notice will be provided prior to the December 1, 2019, effective date of the bankruptcy rules and forms amendments.

COURT GUIDELINES FOR ATTORNEYS FOR CHAPTER 13 DEBTORS AMENDED

Please take notice that the "Guidelines for Compensation for Professional Services or Reimbursement of Expenses by Attorneys for Chapter 13 Debtors Pursuant to Local Rule 2016-1(B)(2)(a)" have been amended to reflect an increase in the compensation fee that an attorney may charge without application to the court.

The "no-look" fee will increase from \$3,500 to \$4,500 for all cases filed under or converted to chapter 13 on or after September 1, 2019. A [Public Notice](#) and amended "Guidelines" are currently posted on the court website.

PROPOSED AMENDMENT TO THE FEDERAL RULES PUBLIC COMMENT PERIOD CLOSES FEBRUARY 19, 2020

On August 19, 2019, the Judicial Conference Advisory Committees on Appellate, Bankruptcy, and Civil Rules published proposed amendments to their respective rules and forms and requested that the proposals be circulated to the bar and public for comment.

Appellate Rules: 3, 6, 42, and Forms 1 and 2; Bankruptcy Rules: 2005, 3007, 7007.1, and 9036; Civil Rule: 7.1

The proposed amendments, rules committee reports explaining the proposed changes, and instructions on how to submit comments are posted on the [USCOURTS.GOV](https://www.uscourts.gov) website at:

<https://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>

The public comment period closes on February 19, 2020. If approved, the amendments would become effective December 1, 2021.



MEET THE COURT'S IT TECHNOLOGY TEAM*— "THE FABULOUS FIVE"

By: Jacqueline Antillon

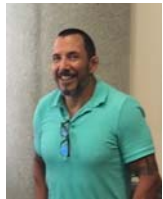
Meet our fabulous five members of the Technology team, one of the two IT "dream-teams" serving vital and integral roles in the court. (Note: Our next newsletter will cover the other team—Software Applications, Programming (aka - our "Fantastic Four"!))

Our Technology team is staffed by Tony Diaz, Information Services Manager, and his super-duper crew of four. They are responsible for the hardware, network servers, switches and PCs used daily by court users. They assist the court's judicial, administrative and operations staff in performing their duties of collecting, processing, storing, retrieving, sharing and distributing court data. They also provide training to staff on applications used in the court and are responsible for maintaining the integrity of court network security. Not only is this team crucial to the everyday support of internal users, members also manage technology services which permits external users in the public to have access to case data necessary for participation in cases and proceedings in this court. As a major driving force in our organization, The Technology team members are relied on by staff for their support and expertise, which, in turn, enables each staff members to productively and successfully achieve the mission of the court.



Julio, Alex, Enrique, Felix

Tony Diaz – Their fearless leader. Tony possesses decision making, analytical, fast thinking and communication skills which he attributes to 4 years of active duty as a Marine, FAST Company (Fleet Antiterrorism Security Team). In addition, he has 23 years of federal service. He attended St. Leo and Miami Dade. Tony is certified in *MCSE, CCNA, Security+, TICSAs and Network+. Tony is a World Champion in Brazilian Jiu-Jitsu so naturally, in his spare time, he loves to practice Brazilian Jiu-Jitsu and Muay Thai kickboxing. He loves being outdoors, spending time with his wife and his four boys. His favorite quote and one he relates all too well - "The greatest leader is not necessarily the one who does the greatest things. He is the one that gets the people to do the greatest things". – Ronald Reagan. And inspire he does, motivate he does, his team and the court appreciate having Tony on board.



Alexis Salazar – Alex has worked 17 years for the court. He holds a degree in Business Administration, is a Microsoft Certified Professional and has the following certificates, *CompTiaA+, and N+. What are his special talents? A little bit of everything he says. He loves to spend quality time with his wife and son. His inspiring words to all of us, "Live life to the fullest," something we can all appreciate.

Julio Cordero – Julio has worked the court for a decade. He attended both Miami Dade College and FIU. Julio has a certificate in *MCP and MCSA. Julio loves to read anything related to science and true to his nature, keeping up with technology. On top of his bucket list: visiting the pristine clear beach of Fiji. He has many quotes, but he lives by this golden rule, "All things, therefore, that you want men to do to you, you also must do to them". – Matthew 7:12

Felix Cabrera – Eight years of working with us and counting, Felix has certifications in *A+, Network +, Security and MCSA. He is our "go to" guru. When the courtroom sound system has a hiccup, he is the expert! He claims he has no special talents, but we beg to differ. Felix is readily available and always wearing a smile. If we were stressed, Felix's smile made that go away, that's a super talent. He loves playing basketball and keeping up with Tech stuff. His favorite quote, "You see things; and you say "Why?" But I can dream things that never were: and I say, "Why not?" – George Bernard Shaw

Enrique Fernandez – Meet the baby of the Technology department. Enrique joined the court family 2 ½ years ago. He has an Associate of Science in Networking Services Technology and is a Cisco Certified Network Administrator. In his spare time, Enrique enjoys CrossFit and spending time with his family. His favorite quote, and one which many of us can relate to, "That's the real trouble with the world. Too many people grow up" – Walt Disney

Collectively, with their years of experience and collaborative teamwork, they are indispensable to the everyday functioning of the bankruptcy world in which we work. Having our own Technology dream team on board has made a huge difference, we are so grateful!

Note: Definitions for certifications mentioned in this article: *MCSE – Microsoft Certified Systems Engineer, CCNA – Cisco Certified Network Associate, TICSAs – TruSecure Certified Security Associate, Network+ – support, network design, cabling, hardware setup, configuration, installation, support and troubleshooting, CompTIAA+ – certification in installing, maintaining, customizing and operating personal computers, N+ – managing, maintaining, troubleshooting, installing and configuring basic computer networks, MCP – Microsoft Certified Professional, MCSA – Microsoft Certified Solutions Associate, A+ – certification in computer repair, software, & operating systems, network administration, information security, cloud computing, troubleshooting of both desktop and mobile devices.



THE CHAPTER 11 CASE SCRAMBLE

By: Lorraine Adam

Corporate Debtor Z is represented by an attorney who e-filed a standard chapter 11 petition accompanied by all required new case filing documents. Unscramble the list of common chapter 11 docket entries on the right to reflect the correct sequential order activity on the left.

Hint: all motions filed have been granted.

Case is e-filed.

- _____ 1. Required Payroll and Sales Tax Reports
- _____ 2. Final Report
- _____ 3. Chapter 11 Plan Ballots
- _____ 4. Final Decree
- _____ 5. Emergency Motion to Pay Pre-Petition Wages
- _____ 6. Chapter 11 Plan and Disclosure Statement
- _____ 7. Final Applications for Compensation
- _____ 8. Confirmation Affidavit
- _____ 9. Order Approving Disclosure Statement
- _____ 10. Objection to Disclosure Statement
- _____ 11. Motion to Extend Exclusivity
- _____ 12. Chapter 11 Case Management Summary

Case is closed.

(See page 12 for answers)



ANSWERS TO THE CHAPTER 11 CASE SHUFFLE ON PAGE 11

5. Emergency Motion to Pay Pre-Petition Wages. Local Rule 9013-1(F) allows for the matter to be heard within two business days, if reasonably possible, and served, as applicable, pursuant to Local Rules 2002-1(H) or 9073-1(B).
12. Chapter 11 Case Management Summary. Local Rule 2081-1(B)(2) requires this summary to be filed within 3 business days after relief is entered under chapter 11, or one business day prior to the date of the first scheduled hearing.
1. Required Payroll and Sales Tax Reports. Local Rule 2081-1(A)(2) requires this document to be filed within 14 days of the petition filed date.
11. Motion to Extend Exclusivity. 11 USC § 1121(b) allows only the debtor to file a plan up to 120 days after the date of the order for relief under chapter 11. 11 USC § 1121(d)(1) allows the court, for cause, to reduce or increase the 120-day period within which a debtor may file a plan.
6. Chapter 11 Plan and Disclosure Statement. 11 USC § 1121(a) states the debtor may file a plan with a petition commencing a voluntary case, or at any time in a voluntary case or an involuntary case. A disclosure statement shall be filed with the plan or within a time fixed by the court, unless the plan is intended to provide adequate information (Bankruptcy Rule 3016).
10. Objection to Disclosure Statement. Local Rule 3017-1(A) requires objections be filed at least 7 days before the hearing on approval of the disclosure statement.
7. Final Applications for Compensation. Local Rule 2016-1(C)(1) requires final applications for compensation of any professional be filed not later than 21 days prior to the confirmation hearing.
9. Order Approving Disclosure Statement. Local Rule 3017-1(B)(2) directs plan proponent to serve Local Form *Order (I) Approving Disclosure Statement; (II) Setting Hearing on Confirmation of Plan; (III) Setting Hearing on Fee Applications; (IV) Setting Various Deadlines; and (V) Describing Plan Proponent's Obligations* at least 40 days before the date set for the confirmation hearing, or as otherwise directed by the court.
3. Chapter 11 Plan Ballots. Local Rule 3018-1(B) provides ballots be filed with the court at least 14 days before the confirmation (except as otherwise ordered by the court).
8. Confirmation Affidavit. Local Rule 3020-1(B) requires the proponent of a chapter 11 plan to file Local Form "Certificate of Proponent of Plan on Acceptance of Plan, Report on Amount to be Deposited, Certificate of Amount Deposited and Payment of Fees" and the Local Form "Confirmation Affidavit" at least 3 business days before the confirmation hearing.
2. Final Report. Local Rule 3022-1(A) requires the proponent of the plan to file Local Form "Final Report and Motion for Entry of Final Decree" (unless otherwise provided in the confirmation order), in a non-individual chapter 11 case, not later than 60 days after the order confirming the plan becomes final.
4. Final Decree. Upon entry of the US Trustee indicating they have no objections to entry of the Final Decree, absent any objections or upon resolution of the objections, a Final Decree closing the case will be prepared by the clerk's office and a copy mailed to the attorney for debtor.



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

Friday, October 4, 2019	12:00 p.m.— 2:00 p.m.
Friday, November 1, 2019	12:00 p.m.— 2:00 p.m.
Friday, December 6, 2019	12:00 p.m.— 2:00 p.m.

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

Friday, October 4, 2019	12:00 p.m.— 1:30 p.m.
Friday, October 25, 2019 (Pro Bono Week)	12:00 p.m.— 1:30 p.m.
Friday, November 15, 2019	12:00 p.m.— 1:30 p.m.
Friday, December 13, 2019	12:00 p.m.— 1:30 p.m.

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

Wednesday, October 16, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B
Wednesday, November 6, 2019	12:00 p.m.— 1:30 p.m.	Courtroom B
Wednesday, December 11, 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, October 10, 2019	6:00 p.m.— 8:00 p.m.
Thursday, November 14, 2019	6:00 p.m.— 8:00 p.m.
December - TBD	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, October 2, 2019	2:00 p.m.
Wednesday, November 6, 2019	2:00 p.m.
Wednesday, December 4, 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:

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Stuart/Port Saint Lucie:	(Jon Martin)	jimbklaw@gmail.com
Treasure Coast:	(Carolyn Fabrizio)	carolyn.fabrizio@frls.org



FLORIDA SOUTHERN BANKRUPTCY MORTGAGE MODIFICATION MEDIATION STATISTICS
(From April 1, 2013 through August 31, 2019)

	<u>MIA</u>	<u>FTL</u>	<u>WPB</u>	<u>TOTAL</u>
MMM Motion (Attorney Rep.)	7355	4932	2755	15042
MMM Motion (Pro Se)	84	39	23	146
Total Motions Filed	7439	4971	2778	15188
Order Granting MMM Motion	6502	4272	2332	13106
Final Report of Mediator	5511	3406	1789	10706
Mediation Agreement Reached	2433	1586	865	4884

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

<u>MIAMI</u>	<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>	
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					341
													Total = 7443

<u>FT. LAUDERDALE</u>	<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>	
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					195
													Total = 4778

<u>WEST PALM BEACH</u>	<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>	
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					163
													Total = 2617

UPCOMING COURT HOLIDAY CLOSINGS *

Monday, October 14, 2019 - Columbus Day Monday, November 11, 2019 - Veterans Day
 Thursday, November 28, 2019 - Thanksgiving Day Wednesday, December 25, 2019 - Christmas Day
 Wednesday, January 1, 2020 - New Year's Day Monday, January 20, 2020 - Birthday of Martin Luther King, Jr.

*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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- 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.