

United States Bankruptcy Court, NDNY

October 2019

Editors: Dina Ventura and
Jill Dalrymple

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Clerk's News 2019



Syracuse Courthouse



Albany Courthouse



Utica Courthouse

NextGen is Coming in 2020!

By: Cynthia Platt

The Bankruptcy Court for the Northern District of New York will be upgrading its CM/ECF software to the Next Generation of CM/ECF ("NextGen"). NextGen implementation activities will begin in early 2020. The implementation process generally takes about 8 months to complete. Thus, we anticipate going live with NextGen in the early fall of 2020. NextGen maintains existing CM/ECF functionality while adding central sign-on for public and judiciary users. This new feature will allow users to maintain one account across all NextGen courts (bankruptcy, district and appellate). This means that attorneys will be able to use one login and password to access PACER and all NextGen courts where they have permission to file. This feature will also provide a centralized functionality for attorney registration and admissions. NextGen CM/ECF should provide greater consistency in user experience, especially for external users.

Contact Us

ALBANY:

U.S. Bankruptcy Court
James T. Foley U.S. Courthouse
445 Broadway, Suite 330
Albany, NY 12207

Albany Clerk's Office Phone:
518-257-1661

Albany Clerk's Office Help
Desk:
518-257-1616

SYRACUSE:

U.S. Bankruptcy Court
James M. Hanley
U.S. Courthouse and Federal
Building
100 South Clinton St.
Syracuse, NY 13261

Syracuse Clerk's Office Phone:
315-295-1600

Syracuse Clerk's Office Help
Desk:
315-295-1618

UTICA:

U.S. Bankruptcy Court
Alexander Pirnie U.S.
Courthouse and Federal
Building
10 Broad St.
Utica, NY 13501

Debtor's Attorney's Fees in Chapter 13 Cases filed in the Albany and Utica Divisions, Effective June 15, 2019

By: Dawn G. Simmons

By Administrative Order 19-01 signed by Judge Robert E. Littlefield, Jr. and Judge Diane Davis, the options available to a debtor's attorney and the procedures that will generally be followed by the Court in the Albany and Utica divisions with respect to attorney's fees and costs have been revised. Administrative Order 19-01, along with a revised *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys* form (the "Revised R & R"), are effective June 15, 2019. AO 19-01 and the Revised R & R may be found at: www.nynb.uscourts.gov/administrative-orders.

Loss Mitigation Annual Statistics

By: Dawn G. Simmons and Edward Didonna

The Loss Mitigation Program was commenced in the Northern District of New York on July 13, 2013. The Loss Mitigation Program Procedures and forms are available under the Loss Mitigation tab on the home page of the Court's website.

During the period of September 1, 2018 through August 31, 2019, 208 Loss Mitigation Requests were filed. During the same time frame, approximately 206 Orders Terminating Loss Mitigation and Final Reports were filed. Approximately 110 requests resulted in a loan modification and approximately 46 requests resulted in the parties being unable to reach an agreement. Other dispositions reported, although less frequently, included short sales, surrender of real property, and termination for debtor's failure to file required documentation.

Loss Mitigation Requests:

Albany	Syracuse	Utica	Total
127	34	47	208

Orders Terminating Loss Mitigation and Final Reports:

Albany	Syracuse	Utica	Total
122	34	50	206

Outcomes as Reported on Final Reports:

Loan Modifications	Unable to Reach Agreement	Short Sale	Other	Surrender of Real Property	Failure to File Required Documents
110	46	2	37	2	3

Utica Clerk's Office Phone:

315-793-8101

Utica Clerk's Office Help Desk:

315-266-1118

Website Address:

<http://www.nynb.uscourts.gov>

District Case Series:

Case Series: Direct Number:

01-09	315-295-1605
10-18	315-295-1604
19-27	315-295-1653
28-36	315-295-1619
37-48	518-257-1614
49-56	518-257-1607
57-67	518-257-1611
68-80	518-257-1633
81-88	315-266-1108
89-00	315-266-1107

The Local Rules Standing Committee

By: Cynthia Platt

The Local Rules Standing Committee is made up of attorneys, court personnel, and trustees appointed by the Board of Judges. The Judges strive for geographic and practice diversity on the committee. The committee serves the important role of ensuring that the Court's local rules accurately reflect changes to the Bankruptcy Code and Federal Rules of Bankruptcy Procedure as well as local court practices. The committee meets two to three times a year to consider the addition of new rules and modifications to existing rules for recommendation to the Board of Judges. The public and members of the bar can submit comments on the local rules at any time via email addressed to rules_comments@nynb.uscourts.gov, or through the Court's website at www.nynb.uscourts.gov. The current members of the committee are: Jessica Grady, Paul Levine, Merritt Locke, Patrick Radel, Amanda Shaw, Paula Barbaruolo, Mary Fangio, Douglas Wolinsky, Michael Chatwin, Christian Dribusch, Andrea Celli, Mark Swimelar, Lisa Penpraze, Cynthia Platt, Dawn Simmons, Jill Dalrymple, Matthew Zapala, Haseeb Fatmi, and Dina Ventura.

Amendments to Local Bankruptcy Rules

By: Cynthia Platt

On August 16, 2019, redline versions of the proposed amendments to Local Bankruptcy Rules 1002-1, 2019-1, 4001-1, 5005-1, 7003-1, 7055-1, 9013-1, and 9037-1 were posted for public comment to the court's website under News & Announcements and disseminated via GovDelivery. The amendments will go into effect December 1, 2019. Some of the amendments are the result of changes to the Federal Rules of Bankruptcy Procedure ("FRBP") that also take effect December 1, 2019. Others were based upon comments received by the Local Rules Standing Committee from the bench and bar.

Local Bankruptcy Rule 1002-1 (Commencement of the Case) was amended largely to align with the FRBP 1002. The portions of the Rule and the Comment referencing filing fees were removed as they are included in Local Bankruptcy Rule 1006-1 (Filing Fee). Other changes were largely stylistic.

Local Bankruptcy Rule 2091-1 was amended to clarify that you may be relieved as attorney of record for a debtor only upon an order obtained after notice and a hearing. Relief may not be obtained ex parte. The underlying motion must be supported by an affidavit stating satisfactory reasons for the withdrawal and a statement of the status of the case.

The information that must be included in a motion for relief from the automatic stay is set forth in Local Bankruptcy Rule 4001-1(a) (Relief From the Automatic Stay). In addition, under paragraph (b), in the case of an individual debtor, if the motion involves real property and is based upon payment default, the movant must file with the motion a Certification of Payment

Sites of Interest

Pending Rule and Form Changes:

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

Federal Rules and Policies:

<https://www.uscourts.gov/rules-policies>

U.S. Trustee Region 2:

<https://www.justice.gov/ust-regions-r02>

Electronic Bankruptcy Noticing:

<https://bankruptcynotices.uscourts.gov/>

History of the Note and Mortgage ("Certification"). The only exception is if the debtor intends to surrender the property the Certification is not needed. If the required information and/or Certification is not included with the motion, the motion may be denied. Local Bankruptcy Rules 4001-1 is amended to remove the requirement that the request that the motion be denied must be made by a party in interest. This change is meant to clarify that the motion may be denied sua sponte by the court.

A new paragraph (b), "Place of Filing," was added to Local Bankruptcy Rule 5005-1 (Electronic Filing and Service) to align with FRBP 5005.

Amendments were made to Local Bankruptcy Rule 7003-1 to explain the conflict between the Rule and the instructions for the adversary proceeding cover sheet. The instructions indicate that the cover sheet is not needed if an adversary complaint is filed electronically through the Court's CM/ECF system. The changes explain why the Clerk's Office needs the information captured on the adversary proceeding cover sheet. A link to a cover sheet in fillable pdf format was added to the Comment. The fillable form is also available on the Court's website.

FRBP 7055 provides, "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that default is shown by affidavit or otherwise, the clerk must enter the party's default." The word "affidavit" in Local Bankruptcy Rule 7055-1 (Default Judgment) was changed to "sworn statement" to make clear that a sworn statement qualifies under the "or otherwise" language of FRBP 7055.

Paragraph (b) of Local Bankruptcy Rule 9013-1 (Motion Practice) was retitled "Notice and Service Generally." Additionally, the phrase "pleading or other document" was replaced with "notice, motion or other paper" to conform with the amendments to FRBP 9036, which address notice and service by electronic means. In addition, a new paragraph (o) setting forth requirements for local counsel was added to the Rule. Local counsel representing a party in place of counsel of record must be admitted to practice before the District Court of the Northern District of New York and should be fully versed in the matter before the Bankruptcy Court.

FRBP 9037 was amended to require that a motion to redact be served upon the debtor, debtor's attorney, trustee, if any, United States trustee, filer of the unredacted document, and any individual whose personal identifying information is to be redacted. Local Bankruptcy Rule 9037-1 is amended to incorporate this notice requirement.

Northern District of New York Bankruptcy Court Personnel Updates from Human Resources

By: Sean Garrow

The past year brought some changes to the Clerk's Office and Chambers' staffs in our Court.

Honor Roll of Pro Bono Service Providers

Chief Judge Margaret Cangilos-Ruiz, Judge Diane Davis and Judge Robert E. Littlefield, Jr. wish to recognize and thank the attorneys and student practitioners listed below for their outstanding pro bono contributions. During the last 12 months, these attorneys assisted 148 debtors who otherwise would not have been able to afford legal representation. Two attorneys provided pro bono services in 10 or more cases: Michael J. O'Connor (29) and Michael J. Toomey (13). In addition, under the supervision of Lee E. Woodard, law students at Syracuse University College of Law represented 13 debtors pro bono. The efforts of these attorneys and students to assist with the unmet legal needs of the economically disadvantaged are to be commended.

We also thank those attorneys that provided single issue advice to litigants, mediated disputes, contributed to CLE programs, presented financial literacy programs, and participated in civic programs at the court and in schools in our district. Your commitment to the profession and the community are sincerely appreciated.

Clerk's Office

Carolyn Behm (Courtroom Deputy) retired in January 2019, after 12 years with the federal judiciary.

Dorothy Glasheen (Case Administrator) retired in July 2019, after 26 years with the federal judiciary.

Cherie Gailor (Case Administrator) retired in July 2019, after 30 years with the federal judiciary.

Chambers

Our Judges' Chambers experienced some transition as well.

Syracuse Chambers

- Raphael Stern (Term Law Clerk to Chief Judge Cangilos-Ruiz) completed his term clerkship.
- Griffin Quist (Term Law Clerk for Chief Judge Cangilos-Ruiz) began his term in September 2019.

Albany Chambers

- Alexander Slichko (Term Law Clerk to Judge Littlefield) completed his term clerkship.
- Colin Glaeser (Term Law Clerk for Judge Littlefield) began his term in July 2019.

Bankruptcy Organizations Providing Pro Bono Services in the Northern District of New York

By: Edward Didonna

We understand that attorneys have many opportunities to provide a range of pro bono legal services to the community. We sincerely appreciate the services you render to the public with respect to bankruptcy matters.

In addition to the outreach provided by Bar Associations, here is a list of links to other organizations that provide or make referrals for pro bono legal services.

The Legal Aid Society of Mid-New York, Inc.:
<http://www.lasmny.org/Index.shtm>

Legal Services of Central New York:
<https://www.lscny.org>

The Greater Syracuse Tenants Network, Inc.:
<http://www.syracusetenant.org>

The Legal Project: <http://www.legalproject.org>

The Legal Aid Society of Northeastern New York: <https://www.lasnny.org>

St. Peter's Health Partners: <http://www.sphp.com>

The Judges are grateful for your willingness to give of your professional time.

Honor Roll of Attorney
Participation in Pro Bono Legal
Services

Theodore Lyons Araujo
Paula M. Barbaruolo
William F. Berglund
Michael R. Cardinale
Maxsen D. Champion
Robert H. Cohen
Guy J. Criscione Jr.
M. Lettie Dickerson
Cindy Domingue-Hendrickson
Christian H. Dribusch
Marc S. Ehrlich
Susan N. Esce
Mary Lannon Fangio
Jessica G. Grady
Gayle Hartz
Peter M. Hobaica
Leigh A. Hoffman
Thomas Paul Hughes
Ronald J. Kim
William J. Leberman
Merritt S. Locke
Carol Ann Malz
Zachary DeCurtis McDonald
Justin D. Myers
Sean Patrick Moran
Christopher S. Nenninger
Michael Jude O'Connor
Peter Alan Orville
Martin W. Pozefsky
David Allen Price
Rachel A. Rappazzo
Arlene Sanders
Richard J. Sardano
Peter C. Schaefer
Michael J. Toomey
Christiaan M Van Niekerk
Meade H. Versace
Jonathan D. Warner
Samuel B. Warner

The Affordable Housing Partnership: <https://ahphome.org/index.html>

United Tenants of Albany, Inc.: <http://unitedtenantsalbany.org>

American Bankruptcy Institute Bankruptcy Resources:
<http://bankruptcyresources.org/content/resources?state=NY>

Clerk's Office Awards Program

By: Sean Garrow

Each year the Clerk's Office holds a ceremony to honor employees who excel at their jobs and contribute significantly to the Court's success or who share ideas that improve the Court's methods, productivity, and cost efficiency.

The 2019 award recipients are:

Clerk's Award - Sara Weiler (Syracuse)

Eagle Awards - Edward Didonna (Albany) and Rochelle Murine (Syracuse)

Shining Star Award - Nicole Smith (Syracuse)

Exceptional Service Awards – Aaron Greth (Albany) and Dana Rosenberg (Albany)

Collaboration Awards – (1) Jeff Dingman (Utica) and T Straile (Syracuse)

(2) Haseeb Fatmi (Syracuse Chambers), Raphael Stern (Syracuse Chambers) and Sara Weiler (Syracuse).

Awards are also given to employees for their years of dedicated government service. The recipients of service awards this year are:

Cherie Gailor (Albany) – 30 Years

Traci-Michelle Phillips (Syracuse) – 5 Years

Richard H. Weiskopf
Lee Edwin Woodard#
L. David Zube

Student Practitioners#

Carissa Weidman
Matthew Bemis
Zacharia Sonallah
Ju-Juanna Perkins
Jenilyn M. Brhel
Elizabeth Lehmann
Athena Pantelopoulos
Alexandra DeSimone
Tyler Sankes
Kathleen K. Morton
Julia Wingfield
Kaitlin M. Jacob

#Syracuse University College of
Law Bankruptcy Clinic

Civic Outreach

By: Dawn G. Simmons

The United States Bankruptcy Court for the Northern District of New York is dedicated to supporting the Second Circuit Court of Appeals' circuit-wide civic education initiative—Justice for All: Courts and the Community. Over the past 12 months, the Court has participated in multiple outreach efforts to engage the public and provide civic education to members of all socio-economic levels, especially students, in interesting and entertaining ways. Through the efforts of the Judges of the Northern District and in coordination with our local schools, N.D.N.Y. Federal Court Bar Association, and our local Bars, the following events were made possible:

REENACTMENTS

- Historical Trial Reenactment—When Silence Speaks: *Russo v. Central School District No. 1* at James M. Hanley United States Courthouse and Federal Building in Syracuse, NY and James T. Foley United States Courthouse and Federal Building in Albany, NY.



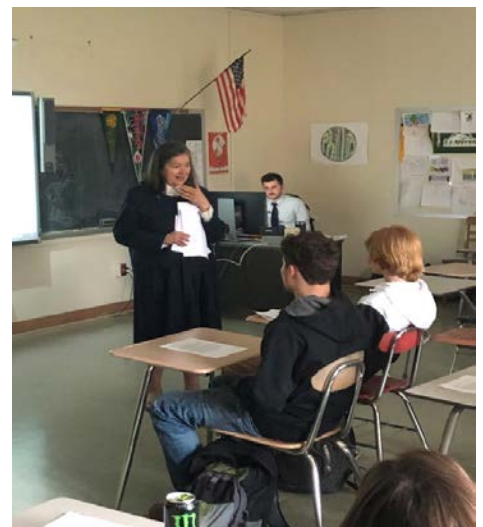
SCHOOL VISITS

Law Week School Visits by four federal judges and attorney volunteers for presentations of the First Amendment to students of Indian River High School, Philadelphia, NY and General Brown High School, Dexter, NY.

- Financial Literacy presentation to Onondaga-Cayuga-Madison BOCES, Liverpool, NY.
- Read Across America – reading of Associate Supreme Court Justice Sonia Sotomayor's book: [Just Ask!](#) to students at North Syracuse Central School.

When Silence Speaks: Russo v. Central School District No. 1 –

Fifty years ago, long before professional athletes began kneeling in protest during the National Anthem, a 21-year old art teacher in upstate New York refused to lead her homeroom in the Pledge of Allegiance. The school district fired her. She sued under the First Amendment.



Though we travel the world over to find the beautiful, we must carry it with us or we find it not.

Ralph Waldo Emerson

Knowledge comes, but wisdom lingers.

Alfred Lord Tennyson

Our greatest weakness lies in giving up. The most certain way to succeed is always to try just one more time.

Thomas A. Edison

The best and most beautiful things in the world cannot be seen or even touched – they must be felt with the heart.

Helen Keller

COURTHOUSE VISITS:



Law Week Visits to James M. Hanley U.S. Courthouse and Federal Building in Syracuse, NY by 300+ students from six high schools. Five federal judges in four different court rooms hosted the students and oversaw the students' participation in a micro-version reenactment of When Silence Speaks: *Russo v. Central School District No. 1*. (Special thanks to the U.S. District and Bankruptcy Court staff who helped plan and execute this event.)



- Presentation to New Visions Law & Government Student Group at the James T. Foley U.S. Courthouse and Federal Building in Albany, NY.
- Presentation to student interns about the U. S. Bankruptcy Court at the James T. Foley U.S. Courthouse and Federal Building in Albany, NY.

Credit Abuse Resistance Education (C.A.R.E.)

Presentation at Maine-Endwell Central School, Broome County.

Presentation to U.S. Probation Officers, James M. Hanley U.S. Courthouse.



CIVIC CEREMONIES

In celebration of Constitution and Citizenship Day, a naturalization ceremony was held at Syracuse University College of Law.

Your work is going to fill a large part of your life, and the only way to be truly satisfied is to do what you believe is great work. And the only way to do great work is to love what you do. If you haven't found it yet, keep looking. Don't settle. As with all matters of the heart, you'll know when you find it.

Steve Jobs

Success is no accident. It is hard work, perseverance, learning, studying, sacrifice and most of all, love of what you are doing and learning to do.

Pele

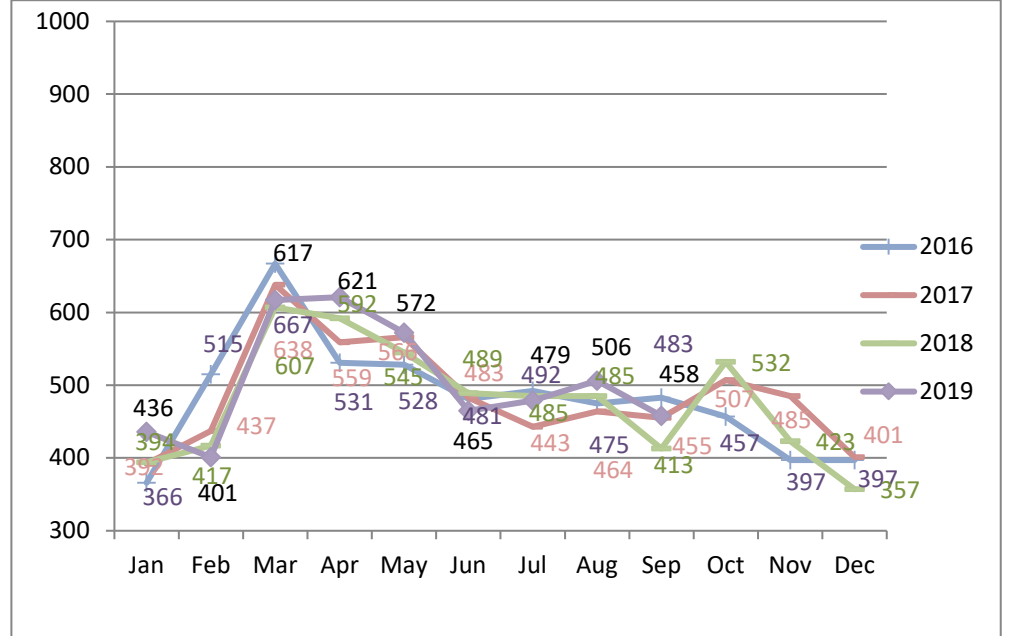
Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of the citizens.

Plato

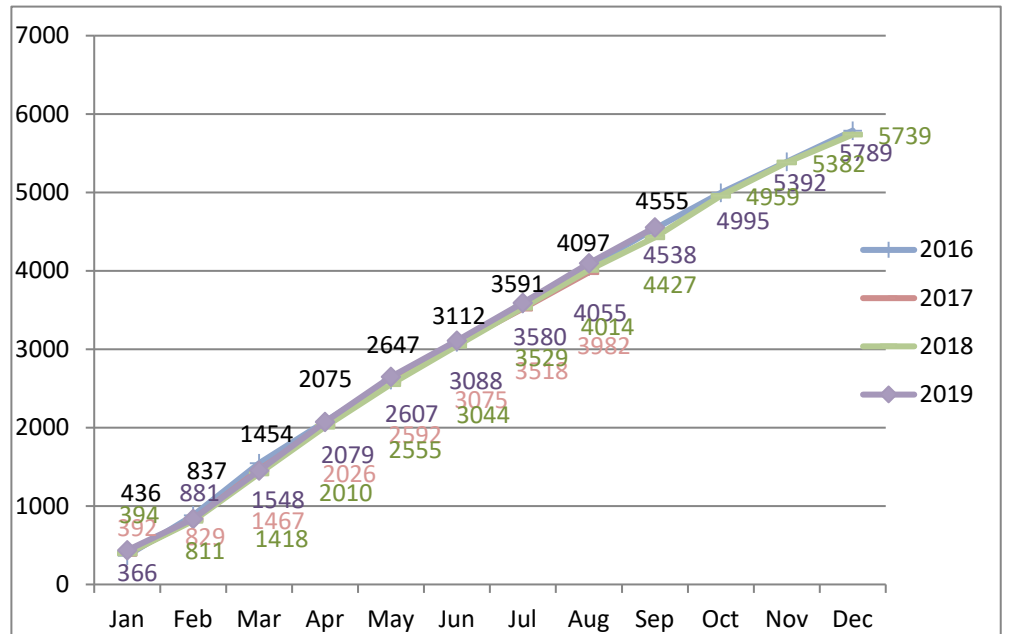
Northern District of New York Bankruptcy Court Case Filing Statistics

By: Sean Garrow







Northern District of New York Bankruptcy Case Filings by Month 2016-2019



Northern District of New York Bankruptcy Total Case Filings 2016-2019



An Attorney's Checklist for a Secure Office

<p>My Devices – At Work, at Home, and Domestic Travel</p>  <ul style="list-style-type: none"> <input type="radio"/> Lock my computer when stepping away (Windows key + L). Cover camera lenses and mute microphones when not in use. <input type="radio"/> Follow guidance provided by the FTC to secure my home network). (https://www.consumer.ftc.gov/articles/0013-securing-your-wireless-network). <input type="radio"/> Consider using a personal Wi-Fi hotspot (phone or other device) when traveling. Do not use public Wi-Fi. 	<p>Social Media</p>  <ul style="list-style-type: none"> <input type="radio"/> Refrain from posting photos or information that reveal my location. <input type="radio"/> Ensure posts maintain the confidentiality of my clients and cases.
<p>In My Office and Outside My Office</p>  <ul style="list-style-type: none"> <input type="radio"/> Take annual security awareness training and ensure all members of my staff have done so. <input type="radio"/> Ensure updates and patches to computer programs and software are installed every month. <input type="radio"/> Turn off virtual assistants (e.g., Alexa, Siri) when not in use. 	<p>Mobile Devices</p>  <ul style="list-style-type: none"> <input type="radio"/> Employ a password lock on my phone, laptop, and tablet. <input type="radio"/> Turn off location services for my mobile device's camera and other apps that don't need it. <input type="radio"/> Encrypt my laptop's hard drive. <input type="radio"/> Encrypt my thumb drives (and any other removable drives). <input type="radio"/> Turn on mobile device Wi-Fi only when needed. <input type="radio"/> Turn off Bluetooth when not in use.
<p>Email</p>  <ul style="list-style-type: none"> <input type="radio"/> Examine the authenticity of email before opening attachments or clicking on links: <ul style="list-style-type: none"> <input type="radio"/> Closely inspect the "From" address. <input type="radio"/> Hover over links to verify their destinations. <input type="radio"/> Look for poor spelling or questionable phrasing. 	<p>Passwords</p>  <ul style="list-style-type: none"> <input type="radio"/> Change passwords upon suspected malicious activity. <input type="radio"/> Keep my password private (e.g., do not write it down, do not store it in a file on my computer or in my phone, and do not disclose it to anyone). Consider using a password vault. <input type="radio"/> Use strong password (minimum of eight upper/lower case letters, a numeric, and a special character). <input type="radio"/> Opt NOT to have my browser save passwords. <input type="radio"/> Use different passwords for different types of accounts. <input type="radio"/> Use multi-factor authentication functionality for my online banking and email accounts, where offered.

ON THE RECORD WITH THE AO

By Scott Myers¹

NEWS FROM THE ADVISORY COMMITTEE ON BANKRUPTCY RULES

My summer column typically provides a brief preview of bankruptcy rule and form changes on track to go into effect this year, and lists any proposed rule and form changes that have been published for comment.

Bankruptcy Rules and Forms effective December 1, 2019

The following rules and forms are on track to go into effect on December 1, 2019: Bankruptcy Rules 4001, 6007, 9036, and 9037, and Official Form 122A-1. In addition, one new director's form will be issued to facilitate the collection unclaimed funds.

A. Rule 4001

Rule 4001(c) (Obtaining Credit) sets forth requirements for obtaining court approval of post-petition credit in a bankruptcy case, including the filing of a motion containing detailed disclosures and information. The proposed amendment makes Rule 4001(c) inapplicable to chapter 13 cases. The Advisory Committee concluded that most of the required disclosures were developed for issues relevant in chapter 11 cases and that these disclosures are unnecessary and unduly burdensome in chapter 13 cases.

B. Rule 6007

The amendments to Rule 6007(b) (Abandonment or Disposition of Property) are designed to specify the parties to be served with a motion to compel the trustee to abandon property under § 554(b) of the Bankruptcy Code, and to make the rule consistent with Rule 6007(a) (dealing with abandonment by the trustee or debtor in possession).

C. Rule 9036

The amendments to Rule 9036 (Notice by Electronic Transmission) allows clerks and parties to provide notices or serve documents (other than those governed by Rule 7004) by means of the court's electronic-filing system on registered users of that system. They also allow service or noticing on any person by any electronic means consented to in writing by that person. The service or notice is complete upon filing or sending, but it is not effective if the filer or sender learns that it was not received.

¹ Scott Myers (Scott_Myers@ao.uscourts.gov) is an attorney for Rules Committee Staff at the Administrative Office of the United States Courts and counsel to Judicial Conference's Committee on Rules of Practice and Procedure and its Advisory Committee on Bankruptcy Rules.

D. Rule 9037

The proposed amendment to Rule 9037 (Privacy Protection For Filings Made with the Court) adds a new subdivision (h) to address the procedure for redacting personal identifiers in previously filed documents that are not in compliance with Rule 9037(a).

E. Official Form 122A-1

The instruction on line 14a of Official Form 122A-1 (*Chapter 7 Statement of Your Current Monthly Income*) is amended to remind a debtor for whom there is no presumption of abuse that Official Form 122A-2 (*Chapter 7 Means Test Calculation*) should not be filled out or filed.

F. New Director's Form 1340

At its April 2019 meeting, the Advisory Committee reviewed a proposed draft director's bankruptcy form for an application for withdrawal of unclaimed funds in closed bankruptcy cases, along with proposed instructions, and proposed orders (Form 1340, Application for Payment of Unclaimed Funds). The initial draft was the product of the Committee on the Administration of Bankruptcy's Unclaimed Funds Task Force. The Advisory Committee supported the idea of a nationally available form to aid in processing unclaimed funds, made minor modifications, and recommend that the Director adopt the form.

Rules and Forms Published for Comment

Bankruptcy rule and form amendments are generally published for public comment for approximately six months from mid-August to mid-February along with any proposed amendments to other rules of procedure or rules of evidence in the "Preliminary Draft of Proposed Amendments." Four bankruptcy rule amendments are out for public comment this cycle: Rules 2005, 3007, 7007.1, and 9036. Readers are encouraged to review the proposed amendments and to submit comments from August 15, 2019 through February 18, 2020 by following the instructions at the following link: : <http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>.