

Courthouse Connection

Newsletter of the U.S. Courts, Western Missouri

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Featured Article

Chamber of Commerce Tours New Jefferson City Courthouse



U.S. District Judge Nanette K. Laughrey and members of the Chamber of Commerce

On a blustery October afternoon, U.S. District Judge Nanette K. Laughrey hosted tours of the new Jefferson City Courthouse for members of the Chamber of Commerce. The event was initiated by attorney Michael Berry as part of the Federal Practice Committee's community outreach efforts, and Berry worked closely with the Chamber, the Clerk's Office and Project Manager Brad Luecke to organize the tours and an educational presentation about the court. The new courthouse sits directly across the street from the historic Missouri State Penitentiary, and prior to the tours, over 100 business people gathered in the oldest standing housing unit on the penitentiary site. In an open house format, visitors were treated to hors d'oeuvres and refreshments courtesy of the Chamber. Judge Laughrey then updated the community leaders on the construction timeline and other topics of interest for the Western District's Central Division. **Full Story Page 2**

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U.S. District Judge Nanette K. Laughrey and members of the Chamber of Commerce

Committee's community outreach efforts, and Berry worked closely with the Chamber, the Clerk's Office and Project Manager Brad Luecke to organize the tours and an educational presentation about the court. The new courthouse sits directly across the street from the historic Missouri State Penitentiary, and prior to the tours, over 100 business people gathered in the oldest standing housing unit on the penitentiary site. In an open house format, visitors were treated to hors d'oeuvres and refreshments courtesy of the Chamber. Judge Laughrey then updated the community leaders on the construction timeline and other topics of interest for the Western District's Central Division.

As the tours ran in shifts, guests who waited their turn continued to visit and to hear comments on the history of the penitentiary from Charles Brzuchalski, Senior Project Manager for the state of Missouri. Donning their required hard hats, those on the tours started with a walk around the first floor of the courthouse, which will house various government offices, the jury terrace,

and the Clerk's, Pretrial and Probation Offices. Next, the tours moved to the third floor where participants visited one of the magistrate courtrooms and chambers. The highlight of the tour was the third-floor terrace view overlooking the Missouri River. Construction remains on schedule for building completion in July 2011 with the court's actual move from the downtown post office location set for September.

Historical Society Speakers Series

Author Jack Heidenry Speaks on the 57th Anniversary of the Greenlease Kidnapping

Jack Heidenry, author of the critically acclaimed book "Zero at the Bone," the grim but fascinating recounting of the kidnapping and murder of 6-year-old Bobby Greenlease, spoke to an audience of nearly 80 bar members at the courthouse on Sept. 30, 2010. Greenlease was kidnapped from the lower school of the Notre Dame de Sion campus on Sept. 28, 1953—nearly 57 years to the day before Heidenry's appearance at the courthouse—taken to some farmland at the present site of 95th and Antioch, and shot to death in the front seat of his kidnapper's car.

The kidnapers, Carl Austin Hall and Bonnie Brown, were quickly captured, tried in the Western District and executed—together, in the Missouri gas chamber—all within 81 days of the kidnapping. Heidenry described in detail the bizarre series of events that played out in St. Louis, the location to which the kidnapers randomly drove the night they obtained their \$600,000 ransom. He described the theft of nearly one-half of the ransom by the arresting police officers.



U.S. District Judge Howard F. Sachs, Historical Society President Paul Donnelly, author Jack Heidenry and Historical Society Vice President Tom Larson



Jack Heidenry signs his book for U.S. Magistrate Judge John T. Maughmer.

For decades, the Greenlease kidnapping trial was the single most publicized case in the history of the Western District of Missouri. It was the subject of worldwide media attention at the time. Thomas Hart Benton, Missouri's renowned artist, was employed by The Kansas City Star to serve as its courtroom sketch artist.

Heidenry was the first in a series of speakers sponsored by the Historical Society for the Western District of Missouri. The Historical Society was re-activated in 2008 as a part of the effort of U.S. Chief District Judge Fernando J. Gaitan Jr. and members of the court en banc to open up the federal courthouse to practitioners who appear there as well as to the public. The Historical Society is funded by contributions from law firms and individual lawyers. Everyone is invited to attend its events.

Author Ken Gormley to Speak on Feb. 10, 2011

The Harry S. Truman Presidential Library is honored to announce that Ken Gormley, author of "The Death of American Virtue," will be in Kansas City on Thursday, Feb. 10, 2011, to discuss his definitive history of the events that led to the impeachment of President Bill Clinton. Gormley will visit as a collaboration between the Library and the Court's Historical Society.

On Nov. 23, 2010, Janet Maslin of The New York Times picked this book for inclusion among her "Top 10 Books of 2010." She wrote: "Another work of living history that's full of real voices, including the remarkable ones of former President Bill Clinton and the former special prosecutor Ken Starr. With an exhaustive list of interviewees who attest to Mr. Gormley's impartiality, including some who could not speak freely while under fire, this law professor coaxes forth the dizzyingly convoluted legal mess that plagued the Clinton presidency and led to impeachment hearings. . . . The title leaves no doubt as to how much bipartisan damage Mr. Gormley thinks was done, and the price he thinks we all paid."

Maslin was not alone in her praise. The Wall Street Journal described the book as being "scrupulously even-handed and exhaustively reported." The Bloomberg News labeled it as "addictive." The Chicago Sun-Times called it "the definitive history of the investigation, impeachment and trial of a president . . . rich in historical detail [and] new information."



Author Ken Gormley

Ken Gormley is the dean of Duquesne Law School. He is a graduate of Harvard Law School and the author of another acclaimed work, "Conscience of a Nation," a biography of Archibald Cox. Gormley has appeared on the "Today" show, "Morning Joe," "Hardball With Chris Matthews" and "Fox & Friends."

Please mark your calendars for Thursday, Feb. 10, 2011—the event will be held at the Plaza Library Auditorium in the early evening. If you have any questions, please contact Paul Donnelly, president of the Historical Society, at pdonnelly@stinson.com.

Thirty-Year Milestone Celebration

On Oct. 19, 2010, the Federal Law Clerk's Society and the Federal Practice Committee hosted a celebration to honor U.S. Chief District Judge Gaitan, U.S. District Judge Dean Whipple and U.S. District Judge Gary A. Fenner for their 30 years of public service. The event was held at Piropos in Parkville.

Former law clerks Charlie Harris (Chief Judge Gaitan), James Humphrey (Judge Fenner) and Barrett Vahle (Judge Whipple) each shared memories about the honorees.



Judge Fenner thanks James Humphrey for his kind words.



Guests enjoy a beautiful fall evening overlooking Parkville.



Barrett Vahle congratulates Judge Whipple for 36 years of public service.



Judges Whipple, Fenner and Gaitan enjoy the evening.



Jonathan Lehr and Andrew Blandford

Federal Court Advocates Membership Drive

Greetings to our fellow and prospective Federal Courts Advocates Section members!

Membership in the new Federal Courts Advocates Section (FCAS) is open to all who are licensed to practice in the federal courts of the Western District of Missouri and the District of Kansas, and membership in the Kansas City Metropolitan Bar Association (KCMBA) is not a prerequisite. The modest 2011 annual membership fee will be:

- \$15 for KCMBA Members
- \$25 for non-KCMBA Members

Although we are a new section, we had an exciting 2010:

- Spring session of "A Conversation With the Federal Judges" hosted by the U.S. District Court for the District of Kansas
- Spring session of "Bench & Bar Dialogue" hosted by the U.S. District Court for the Western District of Missouri
- Summer associates' event hosted by the U.S. District Court for the District of Kansas
- The Federal Practitioners' Summer Social hosted by the U.S. District Court for the Western District of Missouri
- Fall session of "Bench & Bar Dialogue" hosted by the U.S. District Court for the Western District of Missouri
- Fall session of "A Conversation With the Federal Judges" hosted by the U.S. District Court for the District of Kansas

Meanwhile, we are planning an even more active 2011:

- "Gutter Ball Bowling With the Bench & Bar" on Jan. 13 at the Lucky Strike Bowling Lanes in the Power & Light District
- A DKAN "Conversation with the Federal Judges" in March
- The 3rd Annual Federal Practitioners' Summer Social in June before the Bartlett Lectures at WDMO
- A CLE and social event in DKAN in September
- A WDMO "Bench & Bar Dialogue" in October
- Participation in community outreach programs with the federal judges throughout the year

[Click here](#) to renew your membership or join for the first time. Please help us spread the word to those who are not yet members, and encourage them to join today and take advantage of these unique opportunities with our local U.S. District Courts!

Patrick J. Stueve
2011 FCAS President

W. Perry Brandt
2011 FCAS President-Elect



Join Us!

Federal Court Advocates Section presents "Gutter Ball Bowling With the Bench & Bar"

Thursday, Jan. 13 at 5:30 p.m.

Lucky Strike Lanes in the Power & Light District

Light appetizers and bowling compliments of FCAS

For more information about joining FCAS or the event, please contact Kim Elrod at (816) 474-4322.

FCAS Bench & Bar Dialogue Recap

Q: Where do you get meaningful legal discussion, informational time with federal judges and colleagues, and a great lunch?

A: The Bench & Bar Dialogue programs.

If you are a member of the Federal Court Advocates Section (FCAS) of the Kansas City Metropolitan Bar Association, you are invited to attend lunchtime roundtable discussions with area federal judges.

The most recent Bench & Bar Dialogue was held in the Whittaker Courthouse on Wednesday, Oct. 6. Perry Brandt welcomed the group where the discussion topic was hearings on discovery and dispositive motions. Federal judges and practicing attorneys from Kansas and Western Missouri talked about the need for hearings/oral argument, types of discovery and dispositive motions that should be heard, collateral benefits of hearing where all counsel and court meet in person, and effective argument at hearings.



Perry Brandt, Jane Brown and Pat Stueve

“We had another outstanding roundtable program with over 40 participants and several of our federal judges discussing the need and benefits—if any—for hearings on discovery and dispositive motions.”

As president of the FCAS, Pat Stueve noted: “We had another outstanding roundtable program with over 40 participants and several of our federal judges discussing the need and benefits—if any—for hearings on discovery and dispositive motions. The discussion was lively and informative. We look forward to several more roundtables in 2011.”

Encouraging ongoing dialogue between attorneys and judges in an informal setting continues to build an expanded legal knowledge base, thereby making future federal court events productive for all.



U.S. Chief District Judge Fernando J. Gaitan speaks with U.S. District Judge John W. Lungstrum from the District of Kansas.

Judges and Bar Members Visit Local Organizations

Noland Road Lions Club

Isn't it an awesome experience when you plan to deliver an important message to a group, then the event arrives and your expectations are surpassed—you experience a unique connection with your audience?

In a small café in the Englewood area of Independence, U.S. Magistrate Judge Sarah Hays and Court Executive Ann Thompson delivered an educational program as part of the Courtroom to Community outreach to the Noland Road Lions Club. Shortly after an early breakfast and regular business meeting, Ann revisited some historical cases heard in the Western District of Missouri and described recent hot topics for the court.

Judge Hays then detailed the process for selecting a federal judge, case statistics in our jurisdiction and facts about juries. One of the many questions asked was: "What's the difference between a district judge and a magistrate judge?" Judge Hays closed the session by explaining jurisdictional differences between state and federal court.



U.S. Magistrate Judge Sarah Hays speaks to the Lions.

AARP



Southeast Branch of the Kansas City Public Library

A vibrant group of women engaged in meaningful conversation at the Southeast Library about the federal court and related topics with U.S. Magistrate Judge John T. Maughmer and attorney Willie J. Epps Jr. By providing facts to this group, the judge and Epps were able to dispel some of the myths about court. When questions were specifically asked about sentencing, the speakers gave examples of federal sentencings and state sentencings, then noted the differences. That discussion lead to the question: "What happens when they are released?" This gave Judge Maughmer an opportunity to talk about federal probation and, in particular, WDMO's re-entry court program. The group was fascinated to learn about the unique ways the federal court carries out its mission.

Members of area civic organizations who wish to have a judge and members of the bar speak about the judiciary may contact Diana Diaz at diana_diaz@mow.uscourts.gov.

Bankruptcy Brown Bag Luncheons Educate Attorneys

On Thursday, Sept. 16, at the Missouri Bar Headquarters Conference Room in Jefferson City, U.S. Chief Bankruptcy Judge Dennis R. Dow and Adam Miller from the U.S. Trustee's Office, along with courthouse staff, spoke with attorneys from the Central Division during a brown bag luncheon. They discussed various topics, including: the Home Affordable Modification Program (HAMP), creditor abuse and mortgage fraud issues, the next generation of CM/ECF and other general questions on bankruptcy procedures. The brown bag sessions held by the Bankruptcy Court are the perfect opportunity for attorneys to be able to listen in on current bankruptcy issues and ask questions so they have a better understanding of new bankruptcy laws and procedures. The Bankruptcy Court holds brown bag luncheons at various times throughout the year in all divisions, so be sure to attend the next brown bag discussion near you. The court would like to thank the Missouri Bar for hosting the session in Jefferson City.



Federal Practice Committee Welcomes New Members

The Federal Practice Committee for the U.S. District Court for the Western District of Missouri is a committee of attorneys appointed by the court en banc for three-year terms. The members serve as liaisons between the bench and the bar, advising the court on local rules and procedures and undertaking special projects as requested by the chief judge. The 13 committee members represent the various divisions of the district: the Central Division, the Western/St. Joseph Division and the Southwestern/Southern Division.

The following members of the Western District of Missouri bar have been appointed to the Federal Practice Committee for 2011:



Matt Dameron



Doug Harpool



Travis Poindexter



Paul Seyferth



Lynnette Siegel

The court would like to thank the following members of the Federal Practice Committee, whose terms have expired or will expire at the end of 2010, for their service to the court and the committee: Todd H. Bartels, Thomas V. Bender, Michael G. Berry, Aldo Dominguez and Denise Henning.

In addition to the new appointees, current members are: Willie J. Epps Jr.—Chair, Marsha B. Fischer, Brian Gaddy—Immediate Past Chair, Jeffrey P. Ray, Lisa Nouri, Julia Kitsmiller, Mike Oliver and Rodney Nichols.

Federal Rules Changes Effective Dec. 1

(Reprinted from *The Third Branch*, Vol. 42, Number 11, November 2010)

Rule 26 Amendment Affects Expert Witnesses

Among the changes is an amendment to Civil Rule 26 that will have a significant impact on how lawyers use expert witnesses. The amendment extends work-product protection to draft reports by testifying expert witnesses and, with some specified exceptions, communications between attorneys and their experts.

Before the change, Rule 26 had been interpreted to require reports from all witnesses offering expert testimony, and to allow discovery of all communications between counsel and expert witnesses and all draft expert reports. As a result, lawyers and experts often took elaborate steps to avoid creating any discoverable record. At the same time, they invested time and effort in discovering the other side's drafts and communications.

"The artificial and wasteful discovery-avoidance practices include lawyers hiring two sets of experts—one for consultation, to do the work and develop the opinions, and one to provide the testimony—to avoid creating a discoverable record of the collaborative interaction with the experts," said Judge Lee Rosenthal, chair of the Judicial Conference Committee on Rules of Practice and Procedure. To sidestep the rule requirement, experts have often avoided taking notes or making records of any preliminary analyses or opinions, or producing any draft report. The only written record has been the final report.

This practice added to the cost and burden of discovery, impeded the efficient and proper use of experts by both sides, needlessly lengthened depositions, detracted from cross-examination into the merits of the expert's opinions, made some qualified individuals unwilling to serve as experts, and may have reduced the quality of an expert's work.

Nevertheless, discovery into the basis of an expert's opinion is critical. And the best way to scrutinize the merits of an expert's opinion, the Advisory Committee on the Civil Rules of Procedure concluded, is by cross-examination "on the substantive strength and weaknesses of the opinions and by presenting evidence bearing on those issues."

The amended rule specifically provides that the following communications between lawyer and expert are open to discovery: (1) compensation for the expert's study or testimony, (2) facts or data provided by the lawyer that the expert considered in forming opinions, and (3) assumptions provided to the expert by the lawyer that the expert relied upon in forming an opinion.

The amendments to Rule 26 are supported by lawyers and bar organizations, including the American Bar Association, the Council of the American Bar Association Section on Litigation, the American College of Trial Lawyers, the American Association for Justice, the Federal Magistrate Judges' Association, the Lawyers for Civil Justice and the U.S. Department of Justice, among others.

Additional Amendments

Among the other amended rules effective Dec. 1, 2010, are:

- **Bankruptcy Rule 1007:** Shortens time for a debtor to file a list of creditors after the entry of an order for relief in an involuntary case, and extends the time for individual Chapter 7 debtors to file a statement of completion of course in personal financial management.
- **Bankruptcy Rule 1019:** With some exceptions, a new time period to object to a claim of exemption arises when a case is converted to Chapter 7 from Chapter 11, 12 or 13.
- **Civil Rule 56:** Makes procedures for presenting and deciding summary-judgment motions more consistent across districts, and closes the gap that developed between the rule text and actual practice.
- **Criminal Rule 3.1:** Clarifies standard and burden of proof regarding the release or detention of a person on probation or supervised release.
- **Evidence Rule 804:** Extends corroborating circumstances requirement to all declarations against penal interest offered in criminal cases.

For complete information on the new Federal Rules effective Dec. 1, visit the Federal Rulemaking website at www.uscourts.gov/RulesAndPolicies/FederalRulemaking/Overview.aspx.

★ ★ ★ ★ ★ ★ ★ ★
"The artificial and wasteful discovery-avoidance practices include lawyers hiring two sets of experts—one for consultation, to do the work and develop the opinions, and one to provide the testimony—to avoid creating a discoverable record of the collaborative interaction with the experts."
★ ★ ★ ★ ★ ★ ★ ★

—Judge Lee Rosenthal

District Court Highlights

E-mail Announcements From WDMO Share Useful Information

Attorneys can add secondary e-mail addresses to their CM/ECF account to ensure news and announcements from the court are also sent to law clerks, paralegals and assistants.

E-mail announcements are used to provide “mission critical” information on the use of CM/ECF, such as downtime messages, or information that could have an impact on your practice, such as rule changes. Since these announcements often contain information useful to all employees within a law firm, feel free to forward court announcements and/or add non-attorney staff as a secondary recipients as part of the attorney’s registered CM/ECF account.



We understand your e-mail boxes are full, but e-mail from the CM/ECF system is the most efficient way to get time sensitive or essential announcements to attorneys. Please make sure we are sending messages to the right contacts within your organization.

Here’s how:

1. Login to CM/ECF.
2. Click Utilities...Maintain Your Account.
3. Click the E-mail information button near the bottom of the screen.
4. Under Secondary e-mail addresses, click add new e-mail address and enter the Internet-style e-mail address in the text box.
5. Complete any additional options, as appropriate, then click Return to Person Information Screen.
6. To save all new information, click Submit.

CM/ECF Tips

In February 2010, attorneys received a survey from the court requesting feedback on the services provided by the court. A meeting was held with a focus group of attorneys in March 2010 to discuss the comments received from the survey. Throughout this year we've addressed many of the suggestions received from the survey. This article provides information on two of the suggestions: (1) a way to run a docket sheet with recent activity displaying first, and (2) a way to run a calendar of hearings at the court.

Running a Docket Report With Recent Activity First

The *Sort by* dropdown list on the Docket Report selection criteria screen includes a Most recent date first option. If selected, the most recent activity in the case will appear at the top of the docket sheet. The document number option will sort the entries by document number than date filed.

Docket Report Selection Screen

Running a Calendar of Hearings Report

The Calendar Events Report will display a list of calendar events for a specified date range. This report is available free of charge to PACER users.

Users can customize the report by selecting one or more available options. The Calendar Events Report can be run for a specific case, office, nature of suit, calendar event, date/time or a combination of the options.

Calendar Events Report

Case number:

Office: (Joplin (3), Kansas City (4))

Nature of suit: (110 (Insurance))

Calendar events: (Accelerated Jury Trial, Allocution Hearing)

Set: 12/3/2010 to Calendar

Time: Both AM PM

Include docket text Include closed cases Display terminated parties

Sort by:

Calendar Events Report Selection Screen

Selecting an office and date range will provide information on all hearings held in a certain division for the specific dates entered.

U.S. District Court Western District of Missouri Calendar Events Set For 12/6/2010-12/6/2010	
12/06/2010 08:00 AM	4:09-cr-00257-FJG-1 USA v. Mustafa Sentencing Courtroom 7C, Kansas City (FJG) Sean W Pickett representing Sael Moh'd Tuma Mustafa (Defendant) Jeffrey E. Valenti representing USA (Plaintiff) Matthew Wolesky representing USA (Plaintiff) NOTICE OF HEARING as to Sael Moh'd Tuma Mustafa. This is the official notice for this hearing. Evidentiary Hearing/Sentencing set for 12/6/2010 at 8:00 AM in Courtroom 7C, Kansas City (FJG) before Chief District Judge Fernando J. Gaitan Jr. The Court notes parties' previously filed sentencing memos. Signed on 11/10/10 by Chief District Judge Fernando J. Gaitan, Jr. This is a TEXT ONLY ENTRY. No document is attached.
08:30 AM	4:06-cv-00665-DW Roby v. McCoy et al (Nature of Suit 555 - Habeas Corpus (Prison Condition)) Pretrial Conference Courtroom 8B, Kansas City (DW) Muwakkil Khaliah Roby (Plaintiff) Tracey T. Chappell representing Brenda Williams (Defendant [T]), David Smith (Defendant), James McCoy (Defendant [T]), L. Hiebert (Defendant), Mike Davis (Defendant [T]), Mike Schnepf (Defendant), Unknown (Defendant [T]) Arthur A. Hogg representing David Smith (Defendant), L. Hiebert (Defendant), Mike Schnepf (Defendant) dge Dean Whipple. (Willis, Kathy) Copy mailed to Muwakkil Khaliah Roby 10401 E. 42nd St., Apt. D, Kansas City, MO 64133 on 10/13/2010 (McDowell, Shelly). ORDER RESCHEDULING PRETRIAL CONFERENCE AND TRIAL: Pretrial Conference set for 12/6/2010 at 8:30 AM in Courtroom 8B, Kansas City, before District Judge Dean Whipple. Jury Trial to commence immediately thereafter. Signed on 10/12/2010 by District Ju 4:10-cr-00123-FJG-1 USA v. Parrish Accelerated Jury Trial Courtroom 7C, Kansas City (FJG) Robert Glen Kuchar representing Shane A. Parrish (Defendant)

All hearings scheduled for 12/6/2010 in Kansas City

To view a schedule for a single case, enter the case number, office and date range for which you are interested in obtaining a schedule.

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Report output using Case Number, Office and Set fields

Please note that hearings can be rescheduled or canceled, so you are advised to call the Clerk's Office to check on the status of any hearings.

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Report output using Case Number, Office and Set fields

Please note that hearings can be rescheduled or canceled, so you are advised to run a final report prior to coming to the courthouse or call the Clerk's Office to check on the status of the hearing.

Preparations Begin for Transition From PDF to PDF/A



From the inception of CM/ECF, the judiciary embraced the PDF standard for all electronically filed documents. Since it was first adopted, the PDF standard has evolved to include new features, some of which have raised concerns about the security and long-term archival storage of the documents. Tremendous quantities of valuable information are currently being created and saved as a PDF, and a solution is needed to ensure that digital PDF documents remain readable, renderable and accessible for the long term. The PDF/A standard addresses those concerns.

While current versions of CM/ECF already accept PDF/A documents, upcoming releases of CM/ECF will require documents to be in PDF/A format. No target date has been set for the PDF/A requirement, but we encourage you to begin preparations for the transition to PDF/A.

Hyperlinks in PDF/A Documents

When a document with active links is displayed, clicking a link will normally take the user to the referenced document or site. Two notable exceptions are described below.

Masked Hyperlinks

Hyperlinks are commonly “masked,” meaning that the full address of the referenced file is not written out. For example, clicking the word Brief may open a brief that was previously filed in CM/ECF. An “unmasked” hyperlink has the full address visible to the user, such as <https://ecf.mowd.uscourts.gov>.

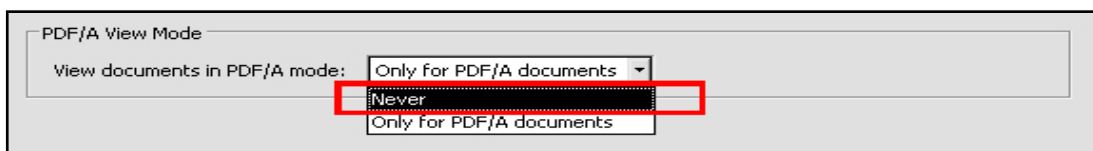
Depending on how they are created, masked hyperlinks may or may not work in a PDF/A document. If a document is produced by the “Save As” method in Microsoft Word 2007 and 2010, or by using the Create PDF method in Microsoft Word 2007, masked hyperlinks are preserved in PDF/A. (Please see the [CM/ECF Version 5.0 Guide](#) for more information on the Create PDF method.)

With other conversion methods, such as WordPerfect, the PDF/A document includes underlined words that appear to be links, but clicking them has no effect. To avoid this potential problem, please use unmasked links in your documents. This will also be helpful to anyone viewing a printed copy of the document that needs to see a referenced item.

Adobe’s PDF/A View Mode

If version nine of Adobe Reader or Acrobat is being used for display, links will not work in “PDF/A View Mode” (the default mode). A user who wants to use the hyperlinks must disable “PDF/A View Mode,” as shown below.

1. From the Edit menu, select Preferences.
2. Click the Documents category.
3. Select Never in the PDF/A View Mode dropdown list.
4. To save this option, click OK.



Changing this setting will allow you to utilize active hyperlinks in documents.

Adobe is currently working on an upgrade that will make this disabling unnecessary and the hyperlinks will be active in PDF/A view mode.

Bankruptcy Court Highlights

Amendments to Federal Rules of Bankruptcy Procedure—Effective Dec. 1, 2010

Congress has taken no action on the amendments to the Federal Rules of Bankruptcy Procedure, approved by the Supreme Court on April 28, 2010. The changes include modifications to some of the Official Bankruptcy Forms. The following amendments to the rules and forms will take effect on Dec. 1, 2010, and will govern all proceedings commenced on or after Dec. 1, 2010, and all proceedings then pending “insofar as just and practicable”:

- Bankruptcy Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 7001 and 9001, and new Rule 5012
- Official Forms 9A, 9C, 9I, 20A, 20B, 22A, 22B and 22C

Some of the amendments are technical or conforming in nature, but others create new filing periods or amend filing requirements. Changes to the rules and forms are summarized below:

Bankruptcy Rule 1007 shortens time for debtor to file a list of creditors after the entry of an order for relief in an involuntary case to seven days and extends time for individual Chapter 7 debtors to file statement of completion of course in personal financial management to 60 days after the first date set for the meeting of creditors. Please note that 2010 Standing Order No. 1, adopted by the Western District of Missouri Bankruptcy Court en banc, extends the deadline to file the list of creditors in an involuntary case to 14 days.

Bankruptcy Rule 1014 extends the authority of the court to determine where cases should go forward when multiple petitions involving the same debtor are pending to include Chapter 15 cases.

Bankruptcy Rule 1015 extends the authority of the court to order consolidation or joint administration of cases to include Chapter 15 cases.

Bankruptcy Rule 1018 modified to reflect enactment of Chapter 15 in 2005.

Bankruptcy Rule 1019 creates, with some exceptions, a new time period to object to a claim of exemption arises when a case is converted to Chapter 7 from Chapter 11, 12 or 13.

Bankruptcy Rule 4001 modified to conform to 2009 time-computation amendments.

Bankruptcy Rule 4004 is amended to include a new deadline for filing of motions (rather than complaints) objecting to a debtor’s discharge when the reason is due to a prior case filing. In addition, the rules clarify that the court shall withhold a discharge in Chapter 11 and 13 cases if the debtor has not filed a statement of completion of a course concerning personal financial management.

Bankruptcy Rule 5009 is amended to require the clerk to provide notice to individual debtors in Chapter 7 and 13 cases that their cases may be closed if they fail to file a statement of completion of financial management course. This will not seem new to attorneys filing in the Western District of Missouri, as the court has been issuing such notices since 2001.

Bankruptcy Rule 5012 is created to establish procedures for coordinating proceedings among cases pending in other countries that involve the Chapter 15 debtor.

Bankruptcy Rule 7001 is amended to cross-reference the new procedure created in Rule 4004 to file certain types of objections to discharge by motion rather than by complaint.

Bankruptcy Rule 9001 is amended to add § 1502 to the list of definitions.

Official Forms 9A, 9C and 9I contain technical changes that conform to the amendments to Bankruptcy Rules 4004 and 7001.

Official Forms 20A and 20B contain technical and conforming amendments.

Official Forms 22A, 22B and 22C. Forms 22A, 22B and 22C instruct that only one joint filer should report payments by another for household expenses. Forms 22A and 22C are amended to delete references to “household” and “household size,” and are replaced by “number of persons” or “family size.” Finally, Form 22A directs debtors in joint cases to file separate forms only if one of the debtors is entitled to a Part I exemption.

Bankruptcy Attorney Advisory Committee Report and Local Rule Changes

The Attorney Advisory Committee to the Bankruptcy Court met on Oct. 25, 2010, to discuss a variety of issues, including proposed amendments to the local rules and revisions to the Chapter 13 model plan. After discussion, the committee approved the following amendments, which were posted to the court’s website for comment and subsequently adopted by the Bankruptcy Court en banc.

Declaration re: Electronic Filing: Rule 1017(d)

The amendment will repeal the requirement that the Declaration re: Electronic Filing be filed in paper format. Instead, the rule will require debtor’s counsel to file a scanned image of the original document with debtor’s manual signature and full Social Security number. This document will be a private entry in the court file and cannot be viewed by the public. This rule change also will be reflected in Section II.D. of the court’s administrative procedures. (See below for filing instructions.)

Notice of Default to Include Payment History: Rule 4001-1(H)

Where a movant has filed a motion for relief from stay that alleges that the debtor has defaulted on any term of a conditional order granting relief from stay, the proposed amendment will require that the notice to cure include a payment history from the date of the issuance of the conditional order.

New Rule Requiring Format for Amended Schedule C (Exempt Property): Rule 1009-1D

This new rule will require that all amendments to Schedule C (exempt property) restate in full all claimed exemptions. All changes to previously claimed exemptions must be identified or footnoted in the amended schedule, and if the debtor fails to meet these requirements, the debtor will be deemed to have failed to meet the notice requirement for amended schedules under Rule 1009 of the Federal Rules of Bankruptcy Procedure.

Proposed Revisions to the Chapter 13 Model Plan

The committee also approved certain proposed changes to the Chapter 13 model plan. These include provisions that related to: (1) a check box for identification of plans that include non-standard provisions; (2) a check box to identify whether required tax returns have been filed or, if not, which years are outstanding; (3) a provision permitting a claim objection or plan amendment subsequent to confirmation if it later appears that the claim of a mortgage creditor was improperly perfected; and (4) a provision for turnover of pre-petition income tax refunds and proceeds from lawsuits or administrative claims pending as of the date of filing.

The court would like to thank the following members of the Attorney Advisory Committee, whose terms have or will expire at the end of 2010, for their service to the court and the committee: Jason Amerine, David Barlow, Harry Boul, Wendee Elliott-Clement, Rachel Foley, Jere Loyd, Robert Maher, Tom O’Neal, Jill Olsen and Sherri Wattenbarger (chair).

Current members of the committee which include Jerald Enslein, Steven Leigh, Connie Montgomery, and Jeffrey Wagoner will be joined by the following new members beginning Jan. 1, 2011: Daniel Casamatta (chair), J. Brian Baehr, Douglas Breyfogle, Benjamin Mann, Carrie Mermis, Danny Nelson, Tracy Robinson, Cristine Stallings, Victor Weber and Tracy Wrisinger.

To file the Declaration under Rule 1017(d) electronically:

1. From the Bankruptcy Events list, select Other.
2. Enter the case number.
3. From the list of Available Events, search for and select Declaration Re: Electronic Filing.

10-40001-drd7 Brian James Day and Jennifer L. Day
dec] Click your selection
Available Events (click to select events)
Declaration Re: Electronic Filing
Next Clear

ECF Bankruptcy ▾
Bankruptcy Events
[Appeal](#)
[Auditor's Reports](#)
[Batch Filings](#)
[Claim Actions](#)
[Court Events...](#)
[Creditor Maintenance...](#)
[File Claims](#)
[Hearing Events](#)
[Motions/Applications](#)
[Multi-Case Docketing](#)
[Notices](#)
[Objection/Response...](#)
[Open New Bankruptcy Case](#)
[Open New Involuntary Bankruptcy Cas](#)
[Orders/Opinions...](#)
Other
[Plan](#)

4. Once the Declaration Re: Electronic Filing event is selected, you will be prompted to browse and select your PDF. Select and attach your PDF document.

5. The final screen will appear.

10-40001-drd7 Brian James Day and Jennifer L. Day
Docket Text: Modify as Appropriate.
Debtor's Declaration Re: Electronic Filing filed by Brian James Day , Jennifer L. Day .
(Wexter, Atty)
Next Clear

Standing Orders



The U.S. Bankruptcy Court en banc for the Western District of Missouri adopted 2010 Standing Order No. 1 and the Second Amended 2008 Standing Order No. 2 on Nov. 16, 2010, effective Dec. 1, 2010.

2010 Standing Order No. 1 grants an extension to the debtor in an involuntary bankruptcy case to file the list of creditors. The order can be accessed at http://www.mow.uscourts.gov/bankruptcy/rules/so_2010_granting_ext.pdf.

The Second Amended 2008 Standing Order No. 2 pertains to the National Guard and Reservists Debt Relief Act of 2008 and incorporates a reference to an amended deadline in Bankruptcy Rule 1007.

A red-lined version of the order can be accessed at http://www.mow.uscourts.gov/bankruptcy/rules/so_2d_amd_adopting_interim_bk_r_2007_redlined.pdf.

A clean version of the order can be accessed at http://www.mow.uscourts.gov/bankruptcy/rules/so_2d_amd_adopting_interim_bk_r_2007.pdf.

Aging and Bankruptcy

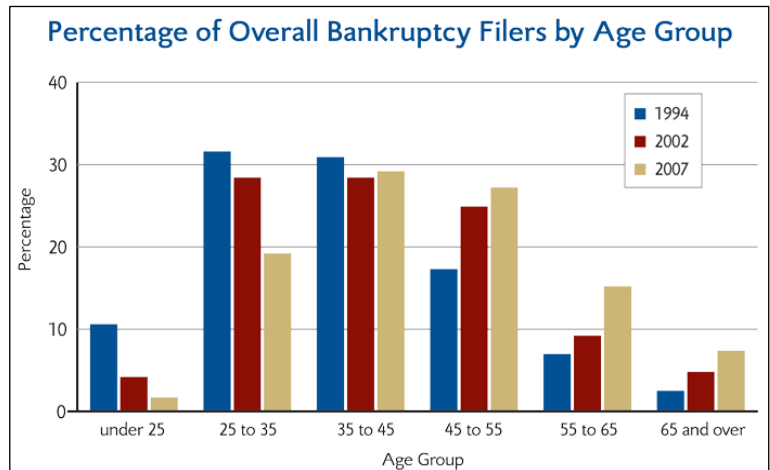
(Reprinted from *The Third Branch*, Vol. 42, Number 11, November 2010)

Baby Boomers Account for Nearly Half of Bankruptcies Filed

Three years ago, a study by Administrative Office statisticians showed a gradual aging of the typical bankruptcy filer, with filers over the age of 45 accounting for a larger percentage of overall filers. Following implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), the economic downturn and the housing crisis, are bankruptcy filings still a function of age?

To answer that question, statistician John Golmant, who conducted the original study, and social science analyst James Woods, both of the AO's Statistics Division, reviewed 822,590 Chapter 7 and Chapter 13 bankruptcy filings for the 12-month period ending Dec. 31, 2007. The chapters account for 99.9 percent of all consumer filings. Filers' birth dates were obtained using outside data sources for a sampling of 2,100 cases.

Golmant and Woods found that the middle-aged still file the bulk of bankruptcies. The median age for bankruptcy petitioners increased from 37.7 years in 1994 to 41.4 years in 2002 to 44.9 years in 2007. Bankruptcy petitioners over the age of 45 constituted 27 percent of filers in 1994, 39 percent in 2002 and 50 percent in 2007.

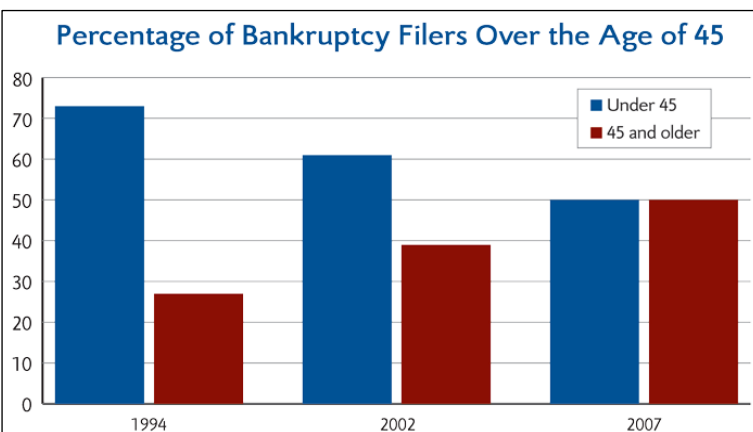


Percentage of Bankruptcy Filers Over the Age of 45

That middle-age filers have come to account for an increasing percentage of overall filers means that baby boomers—those who attained the ages of 43 through 61 during 2007—are disproportionately represented in bankruptcy proceedings.

Several indicators show this age group to be facing financial difficulties, including an increase in the ratio of debt payments to family income for those aged 45 and above. The ratio declined for those under 45. From 2004 to 2007, the percentage share of families with a debt ratio of at least 40 percent rose fastest for those over 45. Additionally, 28 percent of all mortgage delinquencies and foreclosures were for persons 50 years and older.

Meanwhile, the net worth of the middle-aged and older has declined. The median household for persons between the ages of 45 and 54 lost 45 percent of its net worth between 2004 and 2009, and the median household for persons between the ages of 55 and 64 lost 50 percent of its net worth in the same time period.



Percentage of Overall Bankruptcy Filers by Age Group

Credit card debt may play a role as the median value of credit card debt of those aged 55 to 64 increased 9 percent between 2001 and 2004, and 50 percent between 2004 and 2007. For those aged 65 to 74, median credit card debt increased 25 percent from 2004 to 2007.

The effect of BAPCPA on the composition of filings by age is difficult to gauge, according to the authors of the study. They note that post-BAPCPA, there has been an increase in the percent of Chapter 13 filings—an option the act promoted while also increasing restrictions on Chapter 7 filings. It is possible that, given the recent housing crisis and economic downturn, more debtors chose to file Chapter 13 in an effort to postpone foreclosure on their homes. The study showed, however, that the fastest growth in Chapter 13 filings occurred in those debtors between the ages of 55 and 64.

“Given that the proportion of Chapter 13 petitions filed by 55- to 64-year-olds increased dramatically, and given that this age group also contributed to a significant number of foreclosures, it seems plausible that the two phenomena are linked,” the study concludes.

The complete study, *Aging and Bankruptcy, Revisited*, was published in the September 2010 issue of the American Bankruptcy Institute Journal and can be obtained by contacting John Hartgen at 703-894-5935 or jhartgen@abiworld.org.

Quarterly Filing Statistics

The Western District Bankruptcy Court has had a total of 3,882 cases filed during the months of September, October and November, and they are broken down by month and division as shown below:

Bankruptcy Case Filings by Division—September through November 2010

Month	Jefferson City	Joplin	Kansas City	St. Joseph	Springfield	Total
September	222	133	606	97	256	1314
October	219	144	575	128	258	1324
November	217	113	552	100	262	1244

Reminder About NEFs

NEFs (Notices of Electronic Filings) are only “active” for two weeks. After that period, the attorney must pay to view the document.

At the Circuit Level



8TH Circuit Sits in Kansas City—Decisions Pending

A panel from the 8th Circuit Court of Appeals sat in Kansas City Nov. 15-19, 2010. Judges Wollman (SD), Hansen (IA) and Shepherd (AR) sat the first three days of that week, and Judges Wollman, Bye (ND) and Shepherd closed out the last two days. The cases argued ranged from felon-in-possession and sentencing guidelines cases, to multi-party bankruptcy and trademark infringement.

A Tuesday case involved an allegation of employment discrimination on the basis of religion (*Hosea Harrell Jr. v. John E. Potter, Postmaster General*, Case No. 10-1694). Harrell is a member of the Seventh-day Adventist church and is employed by the USPS, a job that required him to work five days a week with Sunday off, and a second day off that rotated. He requested accommodation on the basis of his religion for leave every week between Friday and Saturday evenings. Short of other carriers voluntarily relinquishing their Saturdays off, his requests were denied and Harrell rejected a transfer to another position. He then requested leave for each Saturday he was scheduled to work; his requests were denied and he was terminated for three absences without leave. The District Court (Judge Dean Whipple) granted summary judgment to the USPS, concluding the claims under the Religious Freedom Restoration Act (RFRA) were barred, as Title VII was the exclusive remedy for federal employees. The court concluded that USPS offered Harrell reasonable accommodation and, alternatively, that to offer every Saturday off would have constituted undue hardship because to do so would violate seniority rules of the collective bargaining agreement, and Harrell failed to demonstrate his religion was the motivating factor in his termination. Harrell argues the District Court erred in concluding, as a matter of law, that any preferential treatment created an undue hardship where the accommodation did not violate the collective bargaining agreement or constitute a preference, and erred in concluding he could not pursue a claim under RFRA.

Wednesday featured a trademark infringement case brought by Community of Christ (COC) against Devon Park Restoration Branch and its pastor asserting Devon Park's use of the name "Reorganized Church of Jesus Christ of Latter Day Saints" and "RLDS" violated COC's recently obtained trademarks. The District Court (Judge Gary A. Fenner) granted COC a preliminary injunction, then summary judgment making the preliminary injunction permanent and denied Devon Park's cross-claim to cancel the mark. The court also granted COC attorney fees, noting this was an exceptional case. On appeal, Devon Park argues the names had become generic and lost trademark protection; COC did not demonstrate undisputed facts showing a confusion or likelihood of confusion; COC abandoned any right to RLDS by discontinuing use of the mark; the court erred in denying its claim for cancellation of the mark, ruling in favor of COC on the state law claims, making the preliminary injunction permanent, and concluding this was an exceptional case to justify attorney fees. (Community of Christ Copyright Corp., et al. v. Devon Park Restoration Branch of Jesus Christ's Church, et al. Case No 10-1707)

On Thursday, the judges heard arguments on sentencing for a violation of 18 U.S.C. § 2423, interstate transportation of a minor to engage in sexual activity (U.S. v. Neil Kramer, Case No. 10-1983). Kramer was working in Louisiana when he received a misdirected text from a 15-year-old girl in rural Missouri. The two exchanged texts for several months, and he eventually came to Missouri and took the girl back to Louisiana. Kramer had sex with the girl on several occasions. Kramer admitted he knew the girl was underage and pleaded guilty. At sentencing he objected to the imposition of an enhancement (under Guidelines § 2G1.3(b)(3)(A)), arguing his use of a cell phone to text the victim did not qualify as use of a computer to facilitate the offense. The District Court (Judge Richard Dorr) disagreed, analogizing texting to e-mail, and imposed the enhancement. On appeal, Kramer renews his objection to the computer enhancement.

The appellate judges have taken these cases under advisement and will issue decisions in due course. An appellate panel is scheduled to sit again in Kansas City in May 2011. The calendar of cases for argument will be set in March or April 2011.

For more information on the 8th Circuit Appellate Court, check the 8th Circuit Web page at <http://www.ca8.uscourts.gov>. The 8th Circuit opinion page is here: <http://www.ca8.uscourts.gov/opns/opFrame.html>.

Court News and Notes

Attorney Annual Dues

Payment of the attorney annual dues is just around the corner. The dues will remain \$10 for the 2011 fee year. The fee must be paid *online via CM/ECF* by midnight on March 31, 2011. You will be able to pay your fee using a debit card, credit card or through an ACH payment. Please watch for an e-mail notification in mid-January; dues cannot be paid until you receive the e-mail letting you know it's time to pay.

Failure to pay dues will result in the deactivation of your ECF filing login and password, and therefore your filing privileges will also be revoked. If you do not meet the March 31 deadline, a \$50 reinstatement fee will be required beginning April 1, 2011.

What do you need to do right now?

- Make sure you know your District Court login and password. Please attempt to log in to District CM/ECF prior to the payment deadline to ensure your login and password work correctly.
- If you don't have a District Court login and password, please complete the registration form, and then submit it to the court. Find the form here: <http://www.mow.uscourts.gov/court/ecfregform.pdf>.
- Ensure that the court has your correct e-mail address. You may e-mail Laura Bax at laura_bax@mow.uscourts.gov to confirm your address.

CJA Updates

The *National CJA Voucher Reference Tool* is a U.S. Courts website that is now available for CJA-appointed counsel.

The purpose of the online reference tool is to provide quick access to the policies and procedures related to the Criminal Justice Act (CJA) cases, beginning with the appointment of panel attorneys and continuing through the processing of vouchers to the approval of payment for services rendered.



The information is organized by “topics” and by “roles” that can be accessed through tabs. Direct access to specific questions can be retrieved through the search function. Frequently asked questions (FAQs), quick reference sheets, additional resources and contact information for staff assistance are also available through the “resources” tab.

The Web address is <http://www.uscourts.gov/uscourts/cjaort/index.html>.

Coming in 2011

The Western District of Missouri will be offering CJA voucher policy and procedure training. This training will cover completion of CJA vouchers and worksheets as well as a review of national and local CJA policies.

The training will be available to all CJA panel attorney’s as well as support staff involved with completing vouchers and worksheets. Dates and locations to be announced.

Any questions regarding CJA may be directed to CJA Administrator, Teresa Harrison, via e-mail at teresa_harrison@mow.uscourts.gov or via phone at 816-512-5066. You may also access the court’s website at <http://www.mow.uscourts.gov/district/cja.html> for general information and CJA vouchers.

Jefferson City Courthouse Update

Construction of the new Jefferson City federal courthouse continues at a rapid pace. As of November, most of the work has moved to the inside of the building. Marble wainscot and terrazzo flooring is now being installed in the public spaces.

The courtrooms are progressing—cherry woodwork is being installed, and (right) you can see the current stage of one of the magistrate courtrooms and the bookshelves recently installed in one of the magistrate’s office.



Completion is scheduled for July 2011, with an anticipated opening at the end of the summer. Workers are in the process of setting the granite steps that lead up to the entrance. Meanwhile, the city is finishing up its construction project that extends Lafayette Street and is resurfacing State Street.

Watch out for more updates in the next newsletter, or visit <http://oxblue.com/pro/open/mr/uscourthouse> to view real time progress of the new building via Web cam.



About Courthouse Connection

Court Executive
Ann Thompson

Managing Editor
Lori Carr—District Operations, Western Division

Communications/Project Manager
Tammie Holmes—Administration

Editor
Greg Melvin—District Operations, Western Division

Web and Print Design
Caretta Carlisle—Administration

Contributors
Paul Donnelly—Attorney/Historical Society President
Kim Elrod—KCMBA Services Coordinator
Liza Healey—8th Circuit Court of Appeals
Tom Larson—Attorney/Historical Society Vice President

WDMO Staff Contributors
Laura Bax—District Operations, Central Division
Stephanie Brown—Finance
Beth Graham—Bankruptcy
Diana Diaz—Administration
Teresa Harrison—Finance
Robin Jones—District Operations, Western Division
Kelly McIlvain—Article III Chambers Representative
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Happy Holidays from the Western District!