

Save the Date

October 6, 2014

Bankruptcy "Eat N' Greet"
Kansas City, 2nd Floor Conf. Rooms
11:30am

October 8, 2014

FCAS Bench Bar Dialogue
Kansas City, 2nd Floor Conf. Rooms
12:00pm

October 16, 2014

Central Division Lunch and CLE
Jefferson City, Courtroom 4-B
12:00pm

October 24, 2014

Historical Society
Kansas City, 4th Floor Conf. Room
12:00pm

November 5, 2014

New Attorney Orientation
Kansas City, 4th Floor Conf. Room
8:30am

November 12, 2014

FPD/CJA Panel CLE
Jefferson City Courthouse
Video to KC and Springfield
11:30am

Inside this Edition

Gaitan Portrait Ceremony	2
Annual Bartlett Lectures	3
DISTRICT NEWS	
New FPC Member	4
Amendment 782	4
Springfield Courtroom Remodel	5
BANKRUPTCY NEWS	
New Local Rules	6
Bankruptcy Docket Dates	6
Electronic Proof of Claim Filing	7
Filing Exhibits Online	7
Ch. 13 Home Mortgages	7
ATTORNEY EDUCATION	
Clerk's Corner	8
New Attorney Orientation	8
FCAS Fall Bench Bar Dialogue	9
Central Division CLE	9
Historical Society	10



Courthouse Connection

Newsletter for the United States Courts
for the Western District of Missouri

Volume 5, Issue 4

September 2014

Gaitan Portrait Ceremony



The ceremony featured remarks from Congressman Emanuel Cleaver, Assistant U.S. Attorney Lajuana Counts, Judge Ann Mesle (ret.), Judge Gaitan's nephew Mario, and his longtime friends, Samuel Gaines III and Randall C. Ferguson, Jr.

On August 22, 2014, the court en banc convened a special session to unveil the senior portrait of District Judge Fernando J. Gaitan, Jr. and to celebrate his 34 years of public service. Judge Gaitan, the first African-American appointee to the Western District, took senior status in January following completion of his seven-year term as chief judge.

[Continued on Page 2](#)

14th Annual D. Brook Bartlett Lectures



Attendees display their responses to the ethics questions posed by Professor Levenson.

What would summer be like without an appearance by Erwin Chemerinsky at the Whittaker Courthouse? We hope we never have to find out. On June 27, Dean Chemerinsky once again provided his review of Supreme Court cases. He was joined by Professor Laurie L. Levenson of Loyola Law School, who combined evidence with ethics, and by newcomer Timothy P.

Terrell of Emory Law, who shared his advice on how to write an effective introduction to a brief.

The Supreme Court overview is a long-standing tradition, but finding two additional speakers each year that will provide new and relevant information to

[Continued on Page 3](#)

Gaitan Portrait Ceremony (contd.)

The first in his family to go to college, Judge Gaitan earned a bachelor's degree in biology and psychology from Pittsburg State University in 1970. He returned to Kansas City and began working for Y-Pals, a youth organization co-sponsored by the YMCA and the local bar. His interaction with the young lawyers who volunteered to mentor troubled juveniles at Y-Pals sparked his interest in law school.

Judge Gaitan was also inspired by role models from his own youth. Ironically, the segregation of Kansas City, Kansas, in the 1960s created those role models. Judge Gaitan's grandfather and father worked in the meat-processing plants, but his family lived in the same neighborhood as black bankers, lawyers and teachers because segregation prevented them from living anywhere else, and he got a glimpse of what he could become.

In 1974, Judge Gaitan earned his Juris Doctorate from the University of Missouri - Kansas City School of Law where he was a member of the Law Review. After graduation, he joined Southwestern Bell Telephone Company as in-house counsel, believing that it was crucial to have minority attorneys doing good work in corporate settings.

The decisive moment in Judge Gaitan's legal career came when he attended a National Bar Association conference and listened to a panel of judges discuss how trial judges often play a pivotal role in societal change. That experience prompted Gaitan to try to become a judge, and in 1980, he was appointed as a trial judge for the 16th Judicial Circuit. Six years later, he moved on to the Missouri Court of Appeals-Western District.



Judge Gaitan with wife Sylvia.

In 1991, Judge Gaitan was appointed United States district judge for the Western District of Missouri by President George H.W. Bush. Not only was he the first black judge for the Western District, he was also one of the youngest appointees at 42. On the bench, Judge Gaitan tried some of the district's most significant criminal cases, including a series of high-profile cases involving bank and mortgage fraud, bid-rigging and political corruption. He also presided over a 2006 challenge to Missouri's lack of a consistent protocol for implementing the death sentence.

In 2007, Gaitan became chief judge, championing both the history and the future of the district – through completion of the Bell Room Historical Gallery and a commitment to using technology to better administer justice. He also expanded programming to educate people about jury service and about what happens in federal court.

Judge Gaitan's enthusiasm for his role as a federal judge is second only to his commitment to family. He attributes his early success to his parents, Betty and Fernando, who supported him always and taught him the value of hard work and a good education. He attributes his current success and his ability to do the job he loves to wife Sylvia, daughter Avier, son Trey and a very understanding extended family.

Judge Gaitan will follow the Western District's tradition of maintaining a robust caseload as a senior judge, and he will continue to serve as a speaker and panelist for judicial and bar programs across the country.



Judge Gaitan and family.

14th Annual D. Brook Bartlett Lectures (contd.)

federal practitioners is a challenge. "We were pleased this year to offer something for everyone," stated District Judge Beth Phillips. "Our goal is to invite national caliber speakers that our bar members might not otherwise have an opportunity to see – and to honor Judge Bartlett in the process." Judge Phillips also noted that the court has not abandoned the Q&A panel with the district's judges. "The panel will return," she shared, "but for 2014, we wanted to include a practical writing component, and we were fortunate that Professor Terrell was available."



Professor Terrell explains that "Logic leaves your reader no choice but to agree with you. Persuasion makes your reader want to agree with you."



Dean Chemerinsky describes the entire Supreme Court term without referring to any notes.

What attendees said...

"Every speaker met or exceeded my expectations."

"A close to perfect seminar just on the quality of the speakers and subject matter, but when you throw in an hour of ethics with a free BBQ lunch, well then it becomes CLE nirvana!"

"There is a warm and welcoming environment for this seminar which sets it apart from others. It is run efficiently and seems to always be a highlight of the year. This is one of the most collegial federal court activities I have been a part of."

[Click here for a link to speaker materials, including Dean Chemerinsky's executive summary of Supreme Court decisions.](#)

New FPC Member: Tina Fowler

The Federal Practice Committee welcomes its newest member, Tina Fowler, from the Baird Lightner Millsap firm in Springfield. Ms. Fowler fills the vacancy created when Judge Doug Harpool was appointed to the bench.

In addition to her 17 years of handling complex employment, labor and contractual matters, Ms. Fowler has served as general counsel for a statewide home health care company, where she focused on OFCCP and other regulatory compliance issues.



*Tina Fowler, Attorney at
Baird Lightner Millsap*

Ms. Fowler shared her thoughts on serving the court in this new capacity:

"I am honored to be appointed to the Federal Practice Committee, particularly given the committee's liaison role between the bench and bar. Since 1997, I have actively practiced under the Western District's local rules and appreciate the opportunity to help convey the bar's ideas as to those rules and the district's procedures. I look forward to being part of this process and providing input in the best interest of the bench and the bar as changes, processes and programs are considered."

CRIMINAL PRACTICE ALERT

Drugs Minus Two – Amendment 782 to the Sentencing Guidelines

In April of this year, the U.S. Sentencing Commission sent Congress an amendment to the federal sentencing guidelines. Sometimes referred to as "Drugs Minus Two," Amendment 782 changed the Drug Quantity Table by reducing base offense levels by two. On July 18, the commission voted to apply the reductions retroactively.

The purpose of the amendment is to reflect the commission's determination that setting the base offense levels above mandatory minimum penalties is no longer necessary, and that a reduction would be an appropriate step toward alleviating the over-capacity of the federal prisons. Unless Congress disapproves the amendment, beginning November 1, 2014, eligible offenders can ask courts to reduce their sentences. However, offenders whose requests are granted by the courts can be released no earlier than November 1, 2015.

How does this amendment affect the Western District and its Probation and Pretrial Services (PPTS) Office? The commission's latest numbers suggest that there may be more than 500 WDMO defendants who qualify for Amendment 782 relief. Of those, 89 offenders may be eligible for immediate release on November 1, 2015. This creates an administrative burden for probation

officers and an influx of offenders arriving at the Residential Reentry Center as early as May 2015.

The court and the federal defenders have already received requests for relief based on Amendment 782, but no action can be taken until after November 1 of this year. Probation officers, in partnership with the Clerk's Office, the U.S. attorneys and the federal public defenders, are preparing to review and process the requests so they will be ready for judicial consideration when the time comes. PPTS is also working hard to ensure that offenders benefiting from the amendment will have access to the necessary transition services to successfully reintegrate.

**[Click here for more
information and to view
Amendment 782 in its
entirety.](#)**

Springfield Courtroom Remodel

In 2011, the Western District opened the Bond Courthouse in Jefferson City and introduced litigators to new, state-of-the-art courtrooms. Lawyers trying cases in mid-Missouri can now direct jurors to individual monitors in the jury box or to a big screen, and both witnesses and lawyers can use touchscreens to annotate the exhibits on display.

The court's southern and southwestern bar members are not so lucky, as the courtrooms in Springfield are decidedly not "state-of-the-art." However, that is going to change in 2015, as the district is preparing to lighten and brighten those courtrooms and to install new technology.

"While the 1990s were great," shared Court Executive Ann Thompson, "we are in desperate need of a makeover. Our Springfield attorneys deserve higher functionality to best present their evidence to the judge and jury."

Court personnel are working with designers to ensure that attorneys have easy access to power and connectivity for their equipment and a lectern ready for iPads and laptops. Chief Administrative Officer Paige Wymore-Wynn is also contributing, with more streamlined counsel tables, with more paint and lighting to increase visibility.



"While the 1990s were great...we are in desperate need of a makeover."

Most of the remodeling will be done at night, but the court apologizes in advance for the mess and asks for patience from all – the end result will be worth it. The project will involve two phases, with the first phase to begin in late fall. Additional details will be emailed to local WDMO bar members, and two courtrooms will be available at all times throughout the construction so as not to disrupt the court schedule.

**Coming Soon
for Attorneys...**

**Request Your
IT Equipment Online**

The court is preparing to introduce a new process on its website for attorneys to request audio visual and evidence presentation equipment in the WDMO courtrooms. This online tool will make it easier for attorneys to reserve the IT equipment they need for trial or hearings.

As always, attorneys are encouraged to contact the court and test IT equipment before trial.

New Local Rules

Effective August 7, 2014, the bankruptcy judges adopted two new local rules. **Local Rule 1073-1I** relates to divisional transfers for **Stone County** residents. This rule is similar to the Platte County rule (Local Rule 1073-1H) and provides that cases filed by Stone County residents in the Southwestern Division will be automatically transferred to the Southern Division on the debtor's motion. The motion must be filed with the petition and served on the U.S. Trustee, and it must state that the debtor resides in Stone County and is geographically closer to Springfield than Carthage.

Also effective August 7th, **Local Rule 7001-1** **relates pleadings and the bankruptcy court's authority to enter final judgment.**

The new rule is consistent with the Supreme Court's ruling in *Executive Benefits Insurance Agency v. Arkison*, ____ 2014 WL 256046 (U.S.)

This ruling, often referred to as *In re Bellingham*, addresses jurisdictional issues similar to those in *Stern v. Marshall*, 131 S.Ct. 2594 (2011).

The "Bellingham Rule" provides that in an adversary proceeding before a bankruptcy judge, the complaint, counterclaim, cross-claim or third-party complaint shall contain a statement that the proceeding is (1) both statutorily and constitutionally core; (2) statutorily, but not constitutionally core; or (3) non-core. Any responsive pleading shall admit or deny such statement. If (2) or (3) are alleged, the pleading shall further state whether the party consents to entry of final orders or judgment by the bankruptcy court. Local Rule 7001-1 applies these pleading standards to WDMO cases.

[The new bankruptcy rules may be viewed by clicking here.](#)

Bankruptcy Docket Dates

Location	2014 Remaining Docket Dates
Jefferson City	October 23, 2014 November 13, 2014 December 18, 2014
Joplin / Carthage	September 25, 2014 October 23, 2014 November 13, 2014 December 18, 2014
Kansas City (Chapter 13)	October 6, 2014 October 20, 2014 November 3, 2014 November 24, 2014 December 8, 2014 December 22, 2014

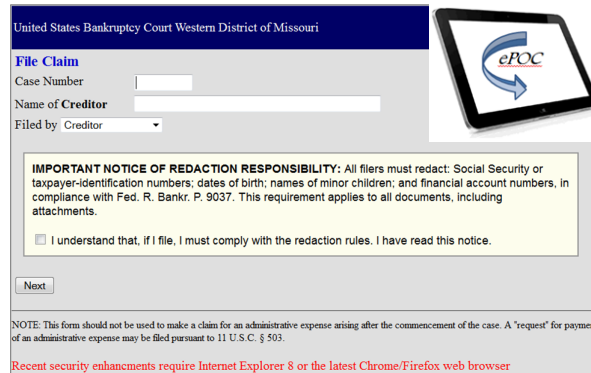
Location	2014 Remaining Docket Dates
Saint Joseph	October 2, 2014 November 6, 2014 December 4, 2014
Springfield	October 1-2, 2014 November 5-6, 2014 December 10-11, 2014

**Bankruptcy court docket dates
for 2015 will be posted to the
court's website soon!**

Electronic Proof of Claim filing (ePOC) is Here

Everything else in our world is done electronically – why not provide creditors and their counsel with an easier way to file proofs of claim? As of July 31, 2014, the Bankruptcy Court has done just that.

The ePOC program is designed to streamline claims processing by allowing creditors to file a claim, amend a claim and withdraw a claim simply by visiting the court's website. ePOC allows creditors to save money on postage, to file a claim 24/7, to receive instant filing confirmation and, most important, to save time. By creating the claim form, filling it out and submitting it all online from a single location, creditors can expedite the entire process and eliminate many of the manual steps from before.



United States Bankruptcy Court Western District of Missouri

File Claim

Case Number

Name of Creditor

Filed by: Creditor

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; and financial account numbers, in compliance with Fed. R. Bankr. P. 9037. This requirement applies to all documents, including attachments.

☐ I understand that, if I file, I must comply with the redaction rules. I have read this notice.

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Recent security enhancements require Internet Explorer 8 or the latest Chrome/Firefox web browser

The bankruptcy staff will be happy to answer questions regarding ePOC (816-512-8000), or you can learn more by [clicking here](#).

Filing Your Bankruptcy Exhibits Online

The bankruptcy court is developing new policies and procedures for filing exhibits on CM/ECF rather than filing an exhibit index and then providing hard copies to the court and opposing counsel.

- The changes would include trial exhibits, proof of claim supporting documents, and motion practice exhibits and attachments.
- The current 5-page limitation on exhibits would be eliminated.

- Attorneys would be required to file complete, properly redacted exhibits via CM/ECF but would no longer need to exchange exhibits via regular mail or to provide paper copies to the court.
- Exceptions will be made for exhibits that are not suitable for electronic filing.

Additional details, including proposed local rule revisions, will be released over the next few months as the court refines the new procedures.

Chapter 13 Home Mortgage Modifications: Proposed Local Rules

The Court has posted two proposed amendments to its Local Rules for public comment. These amendments are based on an Attorney Advisory Group proposal to standardize the Chapter 13 process regarding home mortgage modifications.

Additionally, two local forms are created and one is revised in relation to the proposed rules.

[Click here for details on new LR 3082-1 and revised LR 2016-1F.](#)

Comments will be accepted through September 26, 2014 and should be directed to:

Rob Lawson, Operations Manager
U.S. Bankruptcy Court-Western District of Missouri
400 East Ninth Street, Room 1510
Kansas City, MO 64106
rob_lawson@mow.uscourts.gov

[View proposed changes to the national bankruptcy rules and forms.](#)

Chapter 13 practitioners should pay particular attention to the proposed model Chapter 13 plan.

Clerk's Corner



Court Executive, Ann Thompson

Several years ago, attorney Chris Shank asked why the Western District didn't host a program for summer associates similar to the one offered by the District of Kansas.

Well, Chris, we didn't forget about you. We just got slowed down by last year's sequestration. Rather than duplicating

Kansas' great program, we decided to focus on a fall program for attorneys who just passed the bar.

With the leadership of Jeff Simon and the Federal Practice Committee (FPC) and the organizational skills of Courtroom Deputies Alex Francis and Kelly McIlvain, I am pleased to announce our New Attorney Orientation on November 5, 2014.

The program is a morning session with optional CM/ECF training and courthouse tours in the early afternoon. Presentations will apply to both civil and criminal practitioners, and attorneys with three or fewer years of practice under their belts are invited to attend.

The agenda includes tips from the court reporters and some of our career law clerks, as well as a

panel of veteran lawyers who will identify key local rules. Lunch will be provided as attendees have the opportunity to ask questions to our panel of judges.

We realize that young attorneys have increasing billable hour demands and that training is expensive for solo practitioners and big firms. We hope this orientation will be a good and efficient use of time for new attorneys who are practicing or hope to practice in federal court.

Click the link below for program details and to RSVP by the October 29 deadline.

For those attorneys with slightly more experience, the court has two fall offerings. On October 8, the Federal Court Advocates Section of KCMBA (FCAS) is hosting a Bench and Bar Dialogue luncheon on "The Vanishing Trial." Visit the KCMBA website to join FCAS and register for information on additional free FCAS programs.

On October 16, Judge Matt Whitworth is partnering with the FPC to host the 5th Annual Central Division CLE. The afternoon program includes a barbecue lunch, ethics hours, and both district and magistrate judge panels.

Please contact me to share your ideas on other programs that would be worthwhile for Western District lawyers.

Ann_Thompson@mow.uscourts.gov / 816-512-5015

United States District Court, Western Missouri

New Attorney Orientation

A complimentary program and luncheon for attorneys practicing 3 years or less

Wednesday, November 5, 2014

8:30am

[CLICK HERE TO REGISTER!](#)



Despite an increase in case filings in the last few years, both bench and bar are aware of the small percentage of cases that actually go to trial. What is the impact of this fact on how litigators practice law? What is the impact on how litigators try to resolve cases?

We'll begin with a panel of experienced litigators who will comment on these issues. Individual tables will then have discussion on the following topics:

- Does the "Vanishing Trial" affect how parties take discovery and the purpose of depositions?
- If cases rarely go to trial, how does that change the way litigators prepare to settle or resolve their cases?
- With fewer trials, how will new lawyers learn trial skills?

Open to all FCAS
members.

If you want to
learn more about
FCAS, [click here.](#)

THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI
AND THE FEDERAL PRACTICE COMMITTEE
PRESENT:

The Fifth Annual Central Division CLE

October 16, 2014

1:00 pm – 4:00 pm

Christopher S. Bond
U.S. Courthouse
80 Lafayette Street, Courtroom 4-B
Jefferson City, Missouri

Missouri CLE Pending
(1 Hour Ethics)

No registration fee

Space is limited
[CLICK HERE](#) To reserve your spot,
and to
RSVP by October 3



Courthouse Connection Newsletter

Ann Thompson
Court Executive

Greg Melvin
Copy Editor

Johnathon Bish
Design Editor

Tania Lock and
Diana Diaz
Photography

Contributors

Robin Haller
Rob Lawson
Tracy Diefenbach
Chi King
Ken Celmer
Paul Donnelly
Larry Rouse

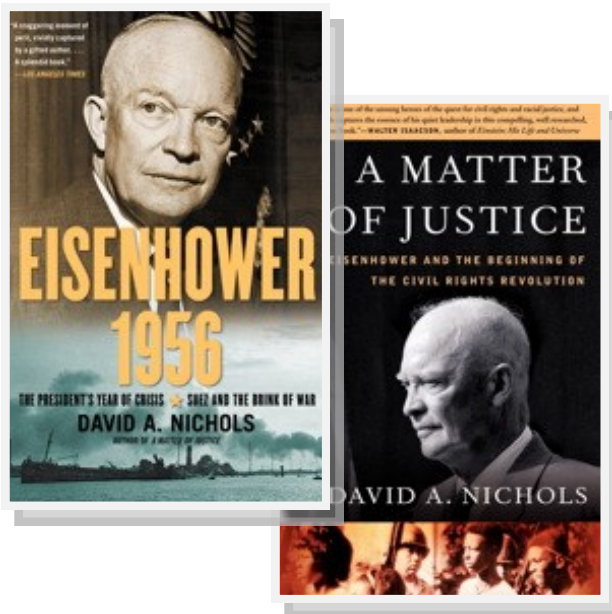
Historical Society Presents Dr. David Nichols

Winfield, Kansas, is home to Dr. David Nichols, one of the nation's leading experts on the Dwight D. Eisenhower presidency, and Dr. Nichols has graciously agreed to reprise remarks he made at Harvard Law School last year regarding President Eisenhower's judicial appointees.

The luncheon program, hosted by the Historical Society of the Western District, will take place at noon on **October 24** at the Whittaker Courthouse. All are welcome, but the society does request a \$10 donation to cover the cost of lunch. Click on the link below to reserve your spot.

Dr. Nichols holds a Ph.D. in history from the College of William and Mary and is a former professor and academic dean from Southwestern College. He has also authored two books on Eisenhower: "A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution" and "Eisenhower 1956: The President's Year of Crisis -- Suez and the Brink of War."

Questions about this program or the Historical Society may be directed to Larry Rouse of Rouse, Hendricks German May PC.



[Click here to
RSVP!](#)

[Back to Main Page](#)