

## Save the Date

**September 17, 2013**

Trial Academy CLE Luncheon  
Kansas City; 4th Floor

**September 19, 2013**

Judge Dow Brown Bag Lunch  
Jefferson City; Jury Room; Noon

**September 27, 2013**

Historical Society Program  
Kansas City; 2nd Floor; Noon

**October 8, 2013**

Trial Academy CLE Luncheon  
Kansas City; 4th Floor

**October 9, 2013**

FCAS Bench Bar Dialogue Luncheon  
Kansas City, 2nd Floor; Noon

**November 12, 2013**

Trial Academy CLE Luncheon  
Kansas City; 4th Floor

**December, 3 2013**

Trial Academy CLE Luncheon  
Kansas City; 4th Floor

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# Courthouse Connection

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

**Volume 5, Issue 1**

**September 2013**

## Norton Takes the Bench



*Judge Norton being sworn in*

On Feb. 1, 2013, Cynthia A. Norton was appointed to the bankruptcy bench in the Western District, and the court hosted her formal Investiture on April 26. At the ceremony, attorneys Mark Stingley and Kathy

Bussing, along with U.S. Bankruptcy Judge Robert D. Berger from the District of Kansas, celebrated Norton's achievements and wished her well in her new role. After administration of the oath by Chief Bankruptcy Judge Arthur B. Federman, Judge Norton was "enrobed" by her husband, George D. Norton, and her children, Lynelle Grimes and Kyle Grimes.

Judge Norton practiced bankruptcy and commercial law in state and federal courts for more than 20 years under her professional name, Cynthia Frogley Grimes. She is a fellow in the American College of Bankruptcy, as well as a recipient of the Michael R. Roser Award for excellence in bankruptcy and the Gernon Award for outstanding contribution to continuing legal education in Kansas.

[Continued on Page 2](#)

## New Road "MAP" for ADR Program

On Aug. 1, 2013, the judges of the Western District issued a new general order governing the court's alternative dispute resolution (ADR) program. Formerly known as the Early Assessment Program (EAP), the program has been renamed the Mediation and Assessment Program (MAP).

The new general order reflects substantive changes designed to allow parties to learn more about their case prior to mediation. "Our goal is to make the mediation process more productive and for mediations to occur at a more productive time," comments MAP Director Jill Morris. [Continued on Page 2](#)



*MAP Director, Jill Morris*

## Judge Norton Takes the Bench (contd.)

Judge Norton made her transition from private practice to the judiciary with record speed. During her second week on the job, she was presiding over her first hearings in Kansas City. By the end of the first month, she had already held court in St. Joseph and Carthage as well.

In addition to her transition from private practice to the bench, Judge Norton and her husband are also transitioning from a home in Lawrence to a new residence in Missouri that is much closer to the Whittaker Courthouse. She had this to say about her new court family:

"I could not have asked for a more gracious welcome from the Western District court family, and I can't thank enough the many court staff who

helped me get ready to hit the ground running. As a lawyer, you only have a dim appreciation of all the work that is going on behind the scenes -- now that I am here, I am amazed every day at the efforts of the clerks, the court service officers and others whose work allows me to go on the bench to do my job. I am honored and humbled to work with so many hardworking and dedicated federal employees."

***"I can't thank enough the many court staff who helped me get ready to hit the ground running."***



## New Road "MAP" for ADR Program (contd.)

The new mediation deadline is 75 days from the date of the Rule 26 meeting—the Rule 26 meeting being the first opportunity for parties to initiate discovery. If parties are assigned to mediate with an outside mediator, they must file a designation identifying the selected mediator and the mediation date within 14 days of the Rule 26 meeting.

"Parties are always welcome to mediate the case earlier, but the extended, 75-day mediation deadline gives counsel an opportunity to exchange written discovery and even take a deposition or two," states Morris. However, this new time frame for mandatory mediation (previously 30 days after the responsive pleading) comes with an obligation. Attorneys must use that time to learn more about their case and to assess pertinent risks and strengths for more effective settlement discussions when the time comes.

Other significant changes to the new MAP order include expanded outside mediator criteria and a specific process for requesting extensions, opt-outs and alternate party appearances. While some items

have changed, the court still believes in early mediation to avoid unnecessary discovery costs and that it is essential to have decision-makers present at the mediation.

"We are fortunate to have a robust ADR program due to the early efforts of Judge Wright and Kent Snapp before mediation was the norm," says Morris. This new order updates the district's program to take new technology, rule changes and practical case processing considerations into account.

Morris extends her thanks to the many lawyers who provided feedback and suggestions through surveys and focus groups. The members of the court's Federal Practice Committee, led by Lisa Nouri and Willie Epps, as well as University of Missouri School of Law Professor John Lande, also provided invaluable assistance.

**Questions may be directed to the MAP office at 816-512-5080 or [map@mow.uscourts.gov](mailto:map@mow.uscourts.gov).**



## Dorr Memorial Scholarship



**U.S. District Judge Richard E. Dorr**  
August 26, 1943 – April 24, 2013

The Western District family sustained a great loss with the passing of Judge Richard E. Dorr earlier this year. Judge Dorr was a leader in every facet of his life and was strong for others, even as he fought his own battle with pancreatic cancer. His life was marked by his love for family and friends and by his dedicated service to his country and his community.

Judge Dorr's family has chosen to continue this legacy with a scholarship for law students. The annual scholarship will be awarded to a graduate of a Jefferson City or Springfield high school, and students entering their second or third year of law school will be eligible to apply. For the 2014-15 academic year, \$3,000 will be awarded. The Community Foundation of the Ozarks will administer the scholarship program and will select the recipients. Applications and detailed criteria will be available on the CFO website ([www.cfozarks.org](http://www.cfozarks.org)) as of Feb. 1, 2014. Members of the bar are urged

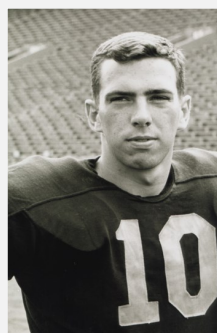
to notify worthy law students about this opportunity.

Mrs. Barbara Dorr will present the memorial scholarship at a portrait ceremony for Judge Dorr this spring.

District Judge Gary A. Fenner shared his thoughts about his friend and colleague:

*"Judge Dorr was a dedicated, hardworking attorney and judge. He had a kind but strong demeanor. He was always willing to consider everyone's position - a characteristic that made him an exceptional jurist. The scholarship in his memory is a wonderful tribute to his desire to help others achieve their goals in life in the manner in which he lived his life."*

**Scholarship questions may be directed to Judith Billings, CFO Scholarship Coordinator, at 417-864-6199.**



## CLERK'S CORNER: The Courts and Sequestration



*Ann Thompson, Court Executive*

At a recent social event, a friend shared his belief that the federal judiciary was exempt from sequestration. Another person opined that sequestration was just philosophical and did not actually reduce funding. Neither statement could be further from the truth.

Sequestration – Congress' 10 percent across-the-board budget cut – took effect on March 1, 2013. It reduced the judiciary's budget by nearly \$350 million and continues to jeopardize the ability of courts to perform their constitutional duties.

What did this mean for the Western District? Our Federal Public Defenders (FPDs), the attorneys who provide counsel to indigent defendants in accord with the Sixth Amendment, have been furloughed on Fridays. In addition to the pay cut for these attorneys, the court could not conduct hearings or trials on FPD cases on Fridays, and cases were continued due to the inability of the FPD office to hire experts and perform other necessary trial preparation. The impact of sequestration has also affected private attorneys who perform criminal defense work under the Criminal Justice Act. Their billable rate was unilaterally reduced by \$15 per hour.

For the court itself, civil cases have increased in each of the past five years, criminal cases are at the highest level in five years, and the ratio of probation officers to the cases they handle has increased steadily. However,

local funding for our court has decreased by more than \$1.5 million dollars in each of the past two years and will be reduced by another \$1 million this coming year. For a tiny organization like ours, cuts of this magnitude cannot continue without a fundamental change in our ability to administer justice.

With all of the cuts, why haven't you noticed yet? There are two key reasons. First, the Western District has been preparing for a new "fiscal standard of living" for several years. We have already reduced our salary footprint, leveraged technology and cut anything that could be cut. Second, the court staff does everything in its power to maintain services so that neither the public nor attorneys experience disruption. Unfortunately, if Congress doesn't act to resolve its bottlenecks and to properly fund the judiciary, we won't be able to sustain our service levels.

The budget for the judiciary represents less than 1 percent of the entire federal budget. Can we really afford not to fund the third branch of our government?

For more details on the detrimental impact of sequestration, [click here](#) to read a letter signed by 87 chief district judges, including Chief Judge Gaitan.

## New Magistrate Judge in Springfield



*Judge Rush  
being sworn  
in by  
Judge Dorr*

On Dec. 1, 2012, David P. Rush took the oath of office as the district's magistrate judge in Springfield. Then, on April 5, 2013, Judge Rush and his family enjoyed his formal Investiture Ceremony on the Missouri State University campus. Friends from both the bar and the community spoke of Judge Rush's many accomplishments, and District Judge Greg Kays welcomed him on behalf of the court en banc.

[Continued on Page 5](#)

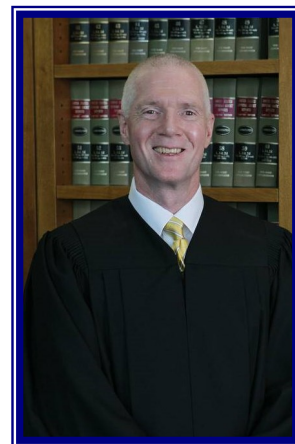
## New Magistrate Judge in Springfield (contd.)

After graduating from MSU and the University of Iowa School of Law, Judge Rush served as a Greene County prosecutor. During his 22 years with the U.S. Attorney's Office, he led the Federal Drug Task Force unit and tried more than 50 cases. Rush is committed to local youth initiatives, including the Boys and Girls Clubs of Springfield. However, his most important "youth initiative" is raising his daughter, Savannah, including cheering for her at high school basketball games and making trips to prospective colleges. Judge Rush had this to say about this new experience:

"I now have a greater appreciation for the wide array of responsibilities of a U.S. Magistrate Judge, and realize that Judge England made the job look easier than it really is. I am challenged by the learning opportunities that are presented each day. Fortunately, I am blessed to have had two outstanding judges as role models, mentors, and friends. The late Richard E. Dorr, District Judge, and James C. England, Mag-

istrate Judge, have had a tremendous positive impact on me personally and professionally. Their influence has helped guide me as I have transitioned from being an advocate to being a judge. I am also blessed with a great staff and courthouse family in Springfield."

***"Judge England made the job look easier than it really is."***



## Thirteenth Annual D. Brook Bartlett Lectures

Sharing knowledge and experience with the legal community helps define James Wagstaffe, law professor and founding law firm partner at Kerr & Wagstaffe LLP in San Francisco.

This was evident on June 28 as Wagstaffe and Dean Erwin Chemerinsky spoke to more than 400 members of the bar at the 13th Annual D. Brook Bartlett Lectures. Professor Wagstaffe described "home run motions" and offered jurisdictional tips for federal court practitioners.

As always, Dean Chemerinsky followed with a thorough and lightning quick review of recent Supreme Court rulings. His knowledge and ability to discuss these detailed decisions without referring to any notes continues to amaze Western District attorneys.

The lecture series began 13 years ago in honor of Judge D. Brook Bartlett's and his passion for main-

taining strong and open communication between the bench and bar.

[Click here](#) to view materials from the lectures on the court's website.

*Judges Gaitan, Phillips, and Fenner enjoying the event*



*James Wagstaffe*



*Dean Erwin Chemerinsky*



## ***New Courtroom Deputy Assignments***

**Dorothy Meyers**  
(Judge Larsen)

**Lori Carr**  
(Judge Hays)

**Alex Francis and  
Terri Moore**  
(Judges Fenner,  
Kays and Whipple)

**Kerry Schroeppel**  
(Judge Rush,  
effective 10-1-13  
upon Glenda  
Elayers's  
retirement)

## **New Versions of CM/ECF**

The court will soon be upgrading to new versions of CM/ECF. We anticipate the upgrade will take place on October 5<sup>th</sup> and 6<sup>th</sup>. Changes that you will notice include:

- The Query selection screen will show the designation for each party.
- Attorneys will only be allowed to select the client that they represent when filing documents.
- The PACER Case Locator is being linked to CM/ECF. From this link you will be able to access other court's PACER sites.

- The mobile query feature will offer a simplified method for displaying case information on mobile devices.

Watch for future notices announcing the exact dates and times for CM/ECF downtime during this upgrade.

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

Case Management

**CM / ECF**

Electronic Case Files



## **Changes to Rule 45 on Subpoenas**

Barring action by Congress, noteworthy amendments to Rule 45, the subpoena rule, will take effect Dec. 1.

The Committee Note to the revised rule states:

The goal of the present amendments is to clarify and simplify the rule. The amendments recognize the court where the action is pending as the issuing court, permit nationwide service of a subpoena, and collect in a new subdivision (c) the previously scattered provisions regarding place of compliance. These changes resolve a conflict that arose after the 1991 amendment about a court's authority to compel a party or party officer to travel long distances to testify at trial; such testimony may now be required only as specified in

new Rule 45 (c) . In addition, the amendments introduce authority in new Rule 45 (f) for the court where compliance is required to transfer a subpoena-related motion to the court where the action is pending on consent of the person subject to the subpoena or in exceptional circumstances.

Rule 37 regarding failure to make disclosures or to cooperate in discovery sanctions will be changed to conform to the Rule 45 amendments, in particular, new Rule 45(f) providing for transfer of a subpoena-related motion to the court where the action is pending. A second sentence is added to Rule 37(b)(1) to deal with contempt orders entered after such a transfer.

[Click here](#) for details on additional rule changes.

## Springfield Re-Entry Court Team Participates in 5K

Led by Judge David P. Rush, court employees involved with the Re-Entry Court program joined with members of the U.S. Attorney's and Federal Public Defender's Offices to be part of the Red Cross Run for "RED"ness.

The June 22nd event raised money to support disaster relief and military veterans in Southwest Missouri. Re-Entry Court participant Jon Gray inspired the group run. One of Mr. Gray's goals during his completion of Re-Entry Court requirements was to complete a 5K. He exceeded his personal goal by also organizing the team effort.

The event promoted living a healthy lifestyle and involvement in positive social activities. It further promoted dedication, determination and teamwork.

These goals parallel the goals of the Re-Entry Court program which provides an alternative for individuals on federal supervised release with significant substance abuse treatment needs.

[\*\*Click here to learn more about Re-Entry Court.\*\*](#)

Participants included:

### **U.S. Magistrate Court:**

Judge David P. Rush and Glenda Elayer

### **Federal Public Defender's Office:**

Carolyn Burks, Michelle Law and Michelle Nahon Moulder

### **U.S. Attorney's Office:**

Randall Eggert, Ami Miller, Steven Mohlhenrich and Pam Schlinder

### **U.S. Probation Office:**

Wilma Allen, Melissa Barker, Karla Duryea, Kim Grace, Anita Rice and Amy Squibb

### **Treatment Provider:**

Anne Frost - Clarity Recovery and Wellness

### **Current Re-Entry Participants:**

Mat Climer, Travis Eastburn, Earnest "Pug" Fuqua, Jon Gray, Dan McCann, Daisy Osbourn and Paul White



*The Springfield Re-Entry Court Team and Participants*

## Judge Dow Honored

On March 15, 2013, the American College of Bankruptcy inducted Judge Dennis R. Dow as a fellow of the college in Washington, D.C. Judge Dow was one of 39 nominees honored and recognized for their professional excellence and exceptional contributions to the fields of bankruptcy and insolvency.

Joined at the ceremony by his wife, Ann, Judge Dow was amazed at the confidentiality surrounding the selection process. Although she was aware he was being considered, even Mrs. Dow kept the secret until the selection became official.

Judge Dow was appointed to the bench by the 8th U.S. Circuit Court of Appeals on Nov. 10, 2003. Prior to his appointment, he was a partner with the firm of Shook, Hardy & Bacon LLP and was listed in "The Best Lawyers in America" in the area of bankruptcy law continuously from 1995.

The Western District is proud to be one of the few courts where all of the bankruptcy judges are fellows.



*Bankruptcy Judge Dennis R. Dow*

## Sixth Annual Frank W. Koger Bankruptcy Symposium

Attendees at this year's Frank W. Koger Bankruptcy Symposium were treated to an excellent array of speakers who specialize in bankruptcy litigation. Professor Rafael Pardo from Emory Law kicked off the event with a presentation on mistakes and misbehavior in undue hardship discharge litigation, particularly student loan cases

Retired Judge William Houston Brown, from the Western District of Tennessee, followed with a discussion on some of the difficult issues in consumer cases—with a little U.C.C. advice thrown in for good measure.

New Bankruptcy Judge Cynthia Norton joined the traditional panel at the end of the symposium to answer questions with her colleagues Arthur Federman and Dennis Dow.

On the evening prior to the symposium, the Kansas

City Bankruptcy Bar Association joined with the court to host the Bankruptcy Spring Social at the Ambigoni Urban Winery. The relaxed atmosphere provided an excellent opportunity for attorneys and judges to catch up on topical issues and to enjoy each other's company outside the courtroom.

*Judges Norton, Dow, and Federman*



*Sherri Wattenbarger, Professor Pardo, and Judge Brown*





United States Courts  
for the Western  
District of Missouri

400 E. 9th Street  
Kansas City, MO 64106

816-512-5000

## Pending Changes to the Bankruptcy Rules

The Judicial Conference Advisory Committee on Bankruptcy Rules recommended and the Supreme Court adopted amendments to **Bankruptcy Rules 1007(b)(7) and 5009(b)** related to the obligations of individual debtors to complete a personal financial management course as a condition of receiving a discharge in bankruptcy.

The rule change will relieve individual debtors of the obligation to file Official Form 2, as long as the provider directly notifies the court that the debtor has successfully completed the personal financial management course. Official Form 23 is revised to reflect the rule change by including an instruc-

tion stating that the debtor should complete and file the form only if the provider has not already notified the court of the debtor's completion of the course. These changes will go into effect on December 1, 2013, barring opposition from Congress.

[\*Click here for a complete description of this and other rule changes scheduled to take effect on Dec. 1, 2013.\*](#)

If approved by the Judicial Conference this month, amendments to the following Official Bankruptcy Forms will take effect Dec. 1:

**3A (Application for Individuals to Pay the Filing Fee in Installments);**

**3B (Application to Have the Chapter 7 Filing Fee Waived);**

**6I (Schedule I: Your Income);**

**6J (Schedule J: Your Expenses);**

**6 Summary (Summary of Schedules);**

**23 (Debtor's Certification of Completion of Instructional Course Concerning Financial Management); and**

**27 (Reaffirmation Agreement Cover Sheet)**

Official Forms 3A, 3B, 6I, and 6J, which are only used in individual debtor cases, are revised as part of the Bankruptcy Rules Advisory Committee's ongoing

## New Bankruptcy Forms

Forms Modernization Project (FMP). Early in its evaluation of the existing bankruptcy forms, the FMP concluded that case opening forms for individuals should be separated from those used by entities.

In addition, three existing Directors Procedural forms for subpoenas – 254 (*Subpoena for Rule 2004 Examination*), 255 (*Subpoena in an Adversary Proceeding*), and 256 (*Subpoena in a case Under the Bankruptcy Code*) – will be withdrawn on December 1, 2013 and replaced with four updated versions (Forms 254, 255, 256, and 257). These updates incorporate pending changes to Civil Rule 45, which is made applicable by Bankruptcy Rule 9016.

[\*Click here to access pending forms and learn more about the changes taking effect on Dec. 1, 2013.\*](#)