# 2023 Annual Meeting with the Bar Vania S. Allen, Clerk of Court **U.S. Bankruptcy Court, Northern District of Georgia**

November 3, 2023

## Statistics for 12 – month period, ending 9.30.23

GANB is the  $3^{rd}$  busiest Bankruptcy Court in the country – 17,433 cases filed

- 1. California Central 19,702
- 2. Illinois Northern -18,751
- 3. GANB
- 4. Michigan Eastern 15,442

#1 in Chapter 13s

Filings per 1,000 population – 2.39% -  $12^{\text{th}}$  highest in the country 8.1% of all filings were *pro se* –  $22^{\text{nd}}$  highest in the country Nationally, filings rose 13 %

## **Statistics (Cont'd)**

- Calendar Year 2023 through 10.31.23 GANB
  - Total filings are ↑ 19.8 %
    - 2023 14,952
    - 2022 12,478
  - Chapter 7s  $\uparrow 20.23\%$
  - Chapter  $13s \uparrow 18.83\%$
  - Chapter 11s ↑ 36.08%
  - Chapter  $15s \uparrow 100\%$
  - 74 Subchapter V Cases filed in 2023

## FY 24 Budget

- Continuing Resolution ends at midnight, November 17, 2023
- In the event of a partial government shutdown, the federal judiciary has funding to maintain operations for approximately 2 weeks using non-appropriated funds.
- GANB will be open for business!



GANB Personnel Updates

- Clerk of Court
- Chief Deputy
- Financial Administrator

- Fee for Pro Hac Vice Admissions Reduced to \$100
- Fees on the Bankruptcy Court Miscellaneous Fee Schedule will increase effective December 1, 2023

| <ul> <li>Filing specific motions</li> </ul> | \$199 |
|---|-------|
| <ul> <li>Claims transfer</li> </ul>         | \$28  |
| <ul> <li>Motion to redact</li> </ul>        | \$28  |
| <ul> <li>Amended Schedules</li> </ul>       | \$34  |
| <ul> <li>Certification</li> </ul>           | \$12  |
| <ul> <li>Audio Recording</li> </ul>         | \$34  |

• ACR – Automated Collections Register

• United States Trustee Zoom 341 Implementation <u>Section 341 Meeting of Creditors Information</u> <u>(justice.gov)</u>

Amended and Restated General Order 37-2020 | 02/06/2023

Signature Requirements for Amended Chapter 13 Plans and Post Confirmation Plan Modifications

Second Amended and Restated General Order No. 26- 2019 | 02/06/2023

Procedures for use throughout the District in Chapter 11 cases that are designated by the Court as "Complex Chapter 11 Cases"

#### Amended and Restated General Order 45-2021 | 05/02/2023

Procedures for Submitting Pleadings by Individual Debtors Not Represented by an Attorney ("Pro Se Debtors")

Third Amended and Restated General Order No. 24-2018 | 05/02/2023

Voluntary Notice Procedures in Chapters 7, 11, 12, and 13.

### FJC Survey for Judge Jeffery W. Cavender and Judge Sage M. Sigler

Judge Jeffery W. Cavender and Judge Sage M. Sigler have asked the Federal Judicial Center (FJC) to distribute a survey to members of the Bar to assess their performance. Judge Cavender and Judge Sigler's participation in this program is voluntary and reflects their desire to provide the highest level of public service. Click <u>here</u> for details regarding participation.

## Zoom Best Practices for Court Hearings

- 1. Zoom hearings are court proceedings and should be treated and respected as such. Do not do anything in a Zoom hearing that you would not do in a courtroom.
- 2. Do not interrupt. There is frequently a brief delay in transmission that may lead you to think the person has finished speaking. Perhaps you can "raise your hand" or otherwise indicate you would like to speak rather than just jumping in and speaking. In person, you would rise and wait to be recognized so think of something similar "virtually".
- 3. Headphones with a microphone should always be used if possible.
- 4. A car is not an appropriate place to participate in a Zoom hearing, as a lawyer or as a party.
- 5. Background matters you should either have a plain background or one that is not too distracting.

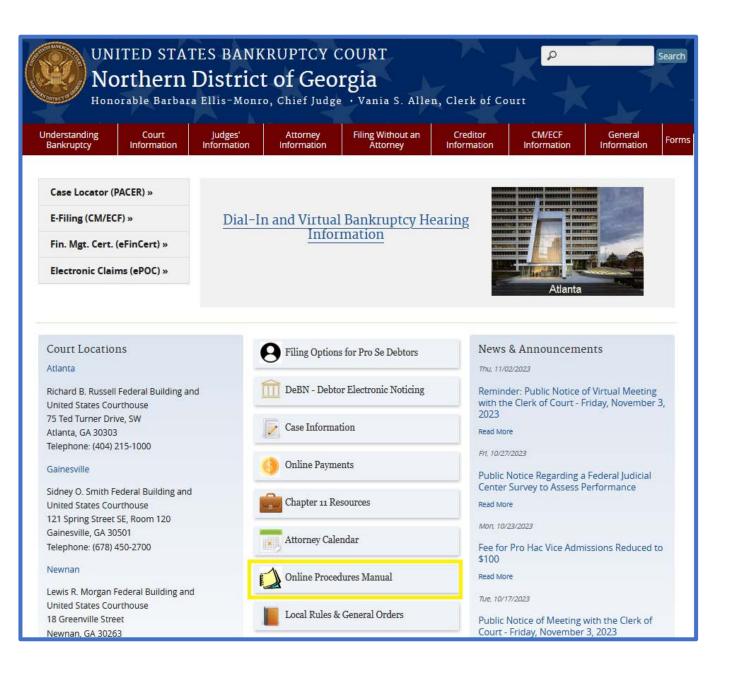
## Zoom Best Practices for Court Hearings, cont'd.

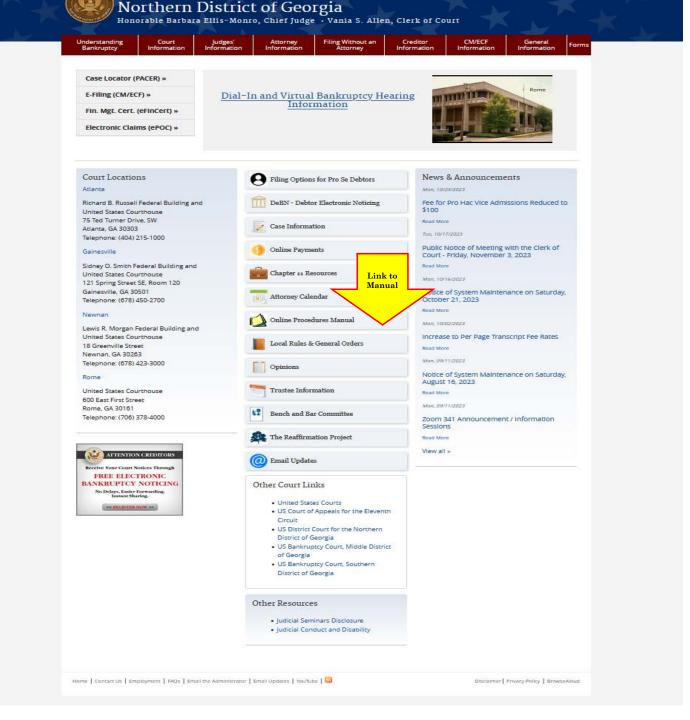
- 6. An attorney should dress for a Zoom hearing the same way one would dress for an in-person court appearance.
- 7. Distance from the camera matters. Too close is no good and too far away is not good either.
- 8. Read the order and notice issued by the Court the matter may be set for an in-person hearing. Don't assume it is virtual.
- 9. Know how to mute and unmute yourself.
- 10. Learn how to share your screen to present a document that may be important to your case.

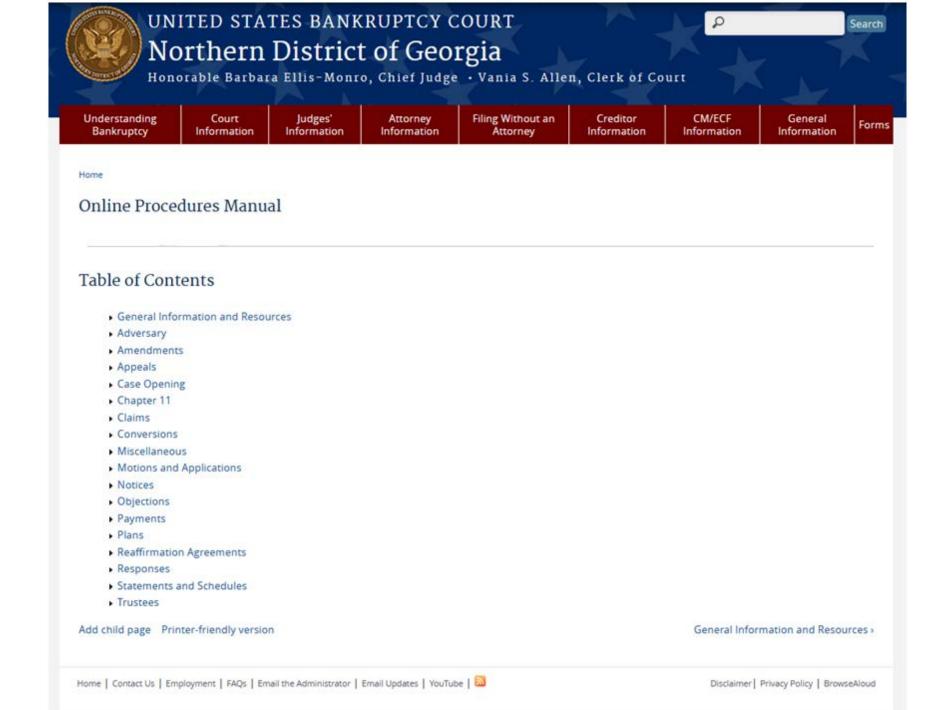
Failure to follow these Best Practices may result in the Court requiring your appearance in the courtroom rather than permitting virtual appearances.

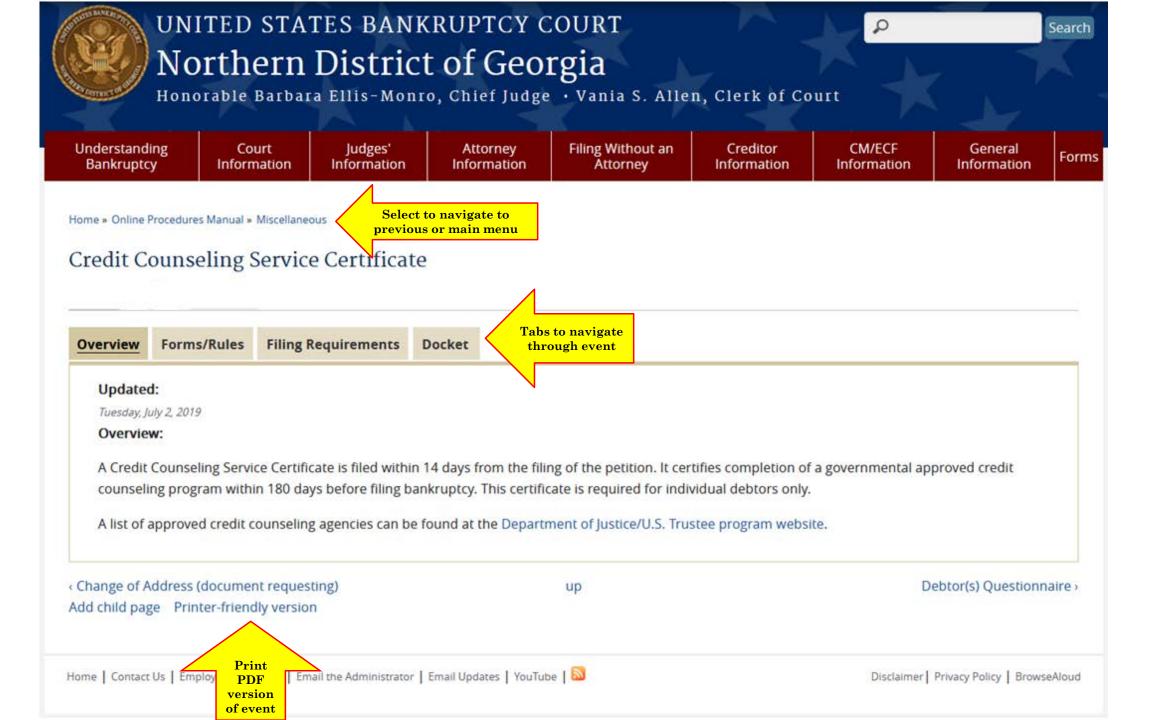
### Online Procedures Manual "OPM"

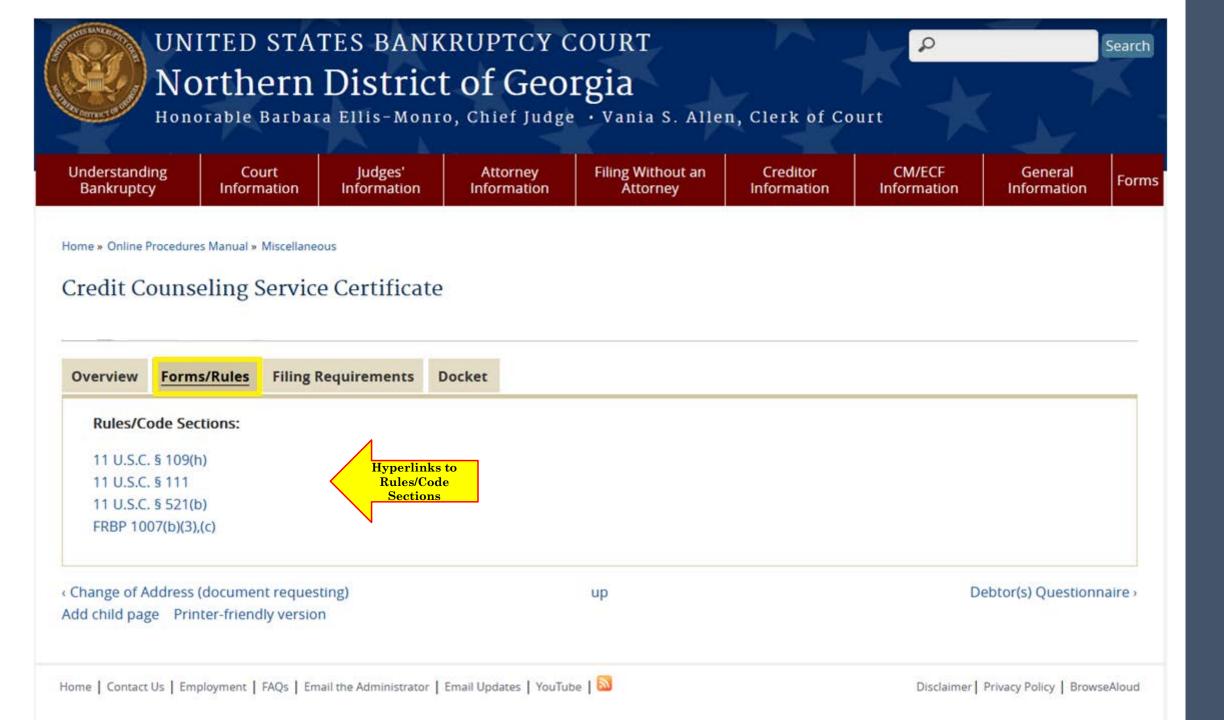
www.ganb.uscourts.gov

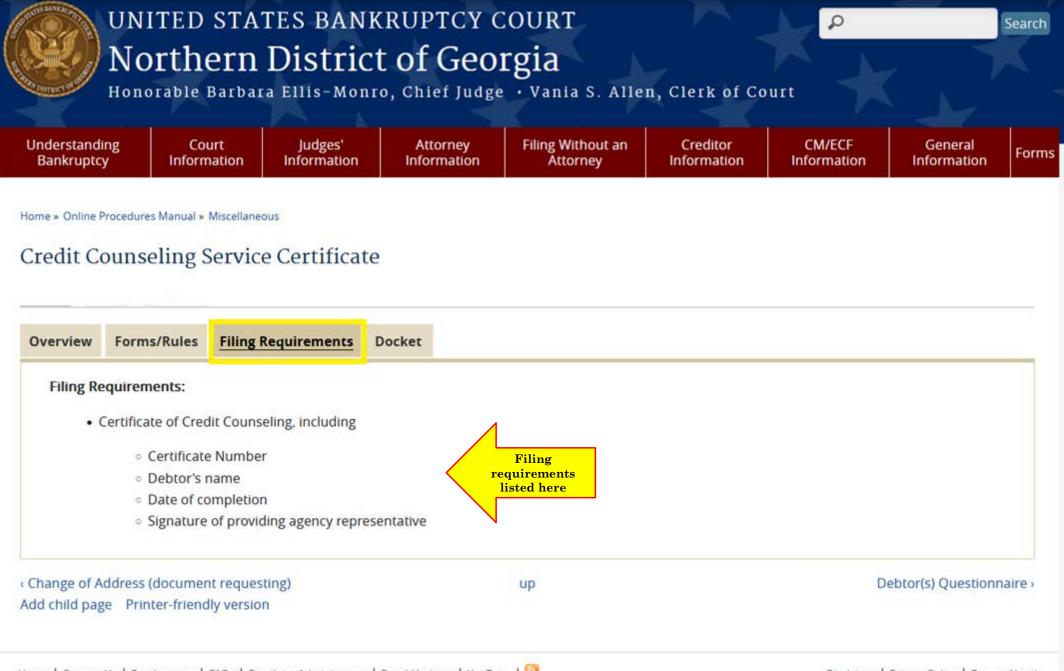




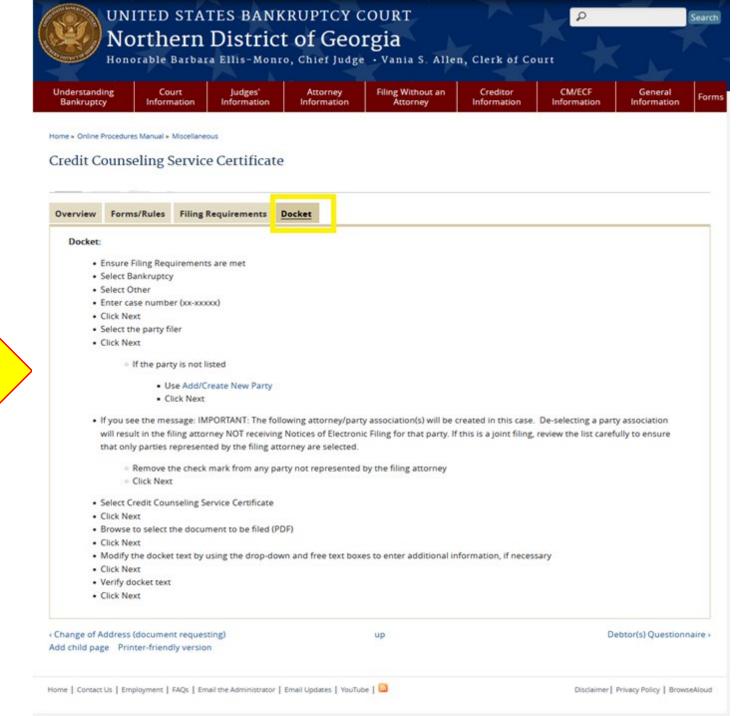








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Step-by-step instructions on how to file the document in ECF

# Federal Rules and Forms Changes Effective December 1, 2023

Bankruptcy Rules 3011, 8003, 9006, 9038

Official Forms 410A, 417A, 1340

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

### RULE 3011 UNCLAIMED FUNDS IN CASES UNDER CHAPTER 7, SUBCHAPTER V OF CHAPTER 11, CHAPTER 12, AND CHAPTER 13

- Amendment requires the clerk to provide searchable access on the court's website to information about unclaimed funds
- Amendment includes language that the court may limit access to information about funds in specific cases for cause
- https://www.ganb.uscourts.gov/unclaimed-funds

### RULE 8003 APPEAL AS OF RIGHT – HOW TAKEN; DOCKETING THE APPEAL

- Amendment is to conform to changes in Fed. R. App. P. 3(c) to clarify that designating a particular interlocutory order in a notice of appeal does not prevent the appellate court from reviewing all orders that merged into the judgment or appealable order or decree. The notice of appeal is supposed to be simple and provide notice that a party is appealing and invokes the appellate court jurisdiction. It is the role of the briefs, not the notice of appeal, to focus the issues on appeal.
- Subdivision (a)(3)(B) is amended to clarify that it is not necessary or appropriate to identify every order of the bankruptcy court that the appellant may wish to challenge on appeal.

### RULE 8003 APPEAL AS OF RIGHT – HOW TAKEN; DOCKETING THE APPEAL; cont'd.

- Subdivision (a)(4) calls attention to the merger principle: an appeal from a final judgment or appealable order or decree permits review of all rulings that led to the judgment, order or decree.
- Subdivision (a)(6) was added to enable the appellant to identify limitations of the notice of appeal by stating that they are only appealing part of the judgement or appealable order or decree.
- Subdivision (a)(7) provides that an appeal must not be dismissed for failure to properly identify the judgment or appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into the judgment, order or decree from which the appeal is taken.

### RULE 9006 COMPUTING AND EXTENDING TIME; TIME FOR MOTION PAPERS

• The amendment adds Juneteenth National Independence Day to the list of legal holidays.

### **RULE 9038 BANKRUPTCY RULES EMERGENCY**

- This rule is new and results from the COVID-19 pandemic to prepare for any similar occurrence.
- Although Rule 9006(b) allows for the extension of certain periods, more flexibility is necessary to allow for extension of other periods.
- Subdivision (a) specifies the circumstances under which this rule may be exercised. The Judicial Conference of the United States has exclusive authority to declare a Bankruptcy Rules Emergency. The emergency must be related to public health or safety or affect physical or electronic access to the bankruptcy court, where the court's ability to operate in compliance with the Bankruptcy Rules is substantially impaired.
- Subdivision (b)(1) states that the emergency declaration must specify which bankruptcy courts to which it applies and must include a termination date within 90 days from issuing the declaration.
- Subdivisions (b)(2) and (b)(3) provide for extensions or early termination of the declaration if circumstances change.

#### RULE 9038 BANKRUPTCY RULES EMERGENCY, cont'd.

- Subdivisions (c)(1) and (c)(2) grant the chief bankruptcy judge of a district the authority during a declared Bankruptcy Rules emergency to extend or toll deadlines on a district or division wide basis or to the presiding judge in a specific case.
- Subdivision (c)(3) addresses the termination of extensions and tolling and provides a soft landing upon the termination of a Bankruptcy Rules emergency
- Subdivision (c)(4) allows fine tuning in individual cases of extensions of time or tollings that have been granted.
- Subdivision (c)(5) excepts from the authority to extend time periods any time provision imposed by statute.

### Official Form 410A Proof of Claim Attachment

• Form 410A is amended to provide for separate itemization of principal due and interest due. Because under § 1322(e) the amount necessary to cure a default is "determined in accordance with the underlying agreement and applicable nonbankruptcy law," it may be necessary for a debtor who is curing arrearages under § 1325(a)(5) to know which portion of the total arrearages is principal and which is interest.

#### Mortgage Proof of Claim Attachment

(12/23)

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.

| Part 1: Mortgage and Case Information      | Part 2: Total Debt Calculation           | Part 3: Arrearage as of Date of the Petition | Part 4: Monthly Mortgage Payment |  |
|--|--|--|----------------------------------|--|
| Case number:                               | Principal balance:                       | Principal due:                               | Principal & interest:            |  |
| Debtor 1:                                  | Interest due:                            | Interest due:                                | Monthly escrow:                  |  |
| Debtor 2:                                  | Fees, costs due:                         | Prepetition fees due:                        | Private mortgage<br>insurance:   |  |
| Last 4 digits to identify:                 | Escrow deficiency for<br>funds advanced: | Escrow deficiency for funds<br>advanced:     | Total monthly                    |  |
| Creditor:                                  | Less total funds on hand:                | Projected escrow shortage:                   |                                  |  |
| Servicer:                                  | Total debt:                              | Less funds on hand: –                        |                                  |  |
| Fixed accrual/daily simple interest/other: |  | Total prepetition arrearage:                 |                                  |  |

## **Official Form 417A**

• Parts 2 and 3 of the form are amended to conform to wording in the simultaneously amended Rule 8003. The new wording is intended to remind appellants that appeals as of right from orders and decrees are limited to those that are "appealable"—that is, either deemed final or issued under § 1121(d). *See* 28 U.S.C. § 158(a)(2). It also seeks to avoid the misconception that it is necessary or appropriate to identify each and every order of the bankruptcy court that the appellant may wish to challenge on appeal. It requires identification of only "the judgment—or the appealable order or decree—from which the appeal is taken."

| 1. Describe the judg | Describe the judgment—or the appealable order or decree—from which the appeal is taken:  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| 2. State the date or | State the date on which the judgment—or the appealable order or decree—was entered:      |  |  |  |  |  |
| Part 3: Identify the | other parties to the appeal  |  |  |  |  |  |
|                      | es to the judgment—or the appealable orde<br>dresses, and telephone numbers of their att |  |  |  |  |  |
| necessary).          |  |  |  |  |  |  |
|                      | Attorney:  |  |  |  |  |  |
| 1. Party:            |  |  |  |  |  |  |
| 1. Party:            | Attorney:  |  |  |  |  |  |

## Form 1340 Application for Payment of Unclaimed Funds

• Changes are made to discourage fraudulent application from persons asserting that they are a successor claimholder.

| Filli | in this Information to identi                     | fy the case:               |   |                |                      |                 |
|-------|---|----------------------------|---|----------------|----------------------|-----------------|
| Deb   | tor 1   |                            |   |                |                      |                 |
|       | First Name  | Middle Name                | Last Name   |                |                      |                 |
| _     | tor 2   |                            |   | _              |                      |                 |
| (Spo  | use, if filing) First Name                        | Middle Name                | Last Name   |                |                      |                 |
| Unite | ed States Bankruptcy Court f                      | or the:                    | _ District of<br>(State)                                | -              |                      |                 |
| Case  | e number:   |                            |   |                |                      |                 |
| Form  | n 1340 (12/23)                                    |                            |   |                |                      |                 |
| APF   | LICATION FOR PAY                                  | MENT OF U                  | INCLAIMED FUNDS   |                |                      |                 |
| 1     | Claim Information                                 |                            |   |                |                      |                 |
|       |   |                            |   |                |                      |                 |
|       |   |                            | ow, application is made for                             |                |                      |                 |
|       | ourt. I have no knowledge<br>rding these funds.   | that any other             | party may be entitled to the                            | nese tunds, ar | nd I am not aware of | any dispute     |
| rega  | rung trese tunus.                                 |                            |   |                |                      |                 |
| Note  | : If there are joint Claiman                      | its, complete the          | e fields below for both Cla                             | imant          |                      |                 |
| Amo   | unt:  |                            |   |                |                      |                 |
| Clair | mant's Name:                                      |                            |   |                |                      |                 |
|       |   | +                          |   |                |                      |                 |
|       | mant's Current Mailing<br>ress, Telephone Number, |                            |   |                |                      |                 |
|       | Email Address:                                    |                            |   |                |                      |                 |
|       |   |                            |   |                |                      |                 |
| 2.    | Claimant Information                              |                            |   |                |                      |                 |
| A     |   |                            |   |                |                      |                 |
| Аррі  | icant <sup>2</sup> represents the follo           | wing.                      |   |                |                      |                 |
|       | The Claimant is the Ow                            | ner of Record <sup>3</sup> | entitled to the unclaimed f                             | funds appeari  | ng on the records of | the court.      |
|       | The Claimant (Success                             | or Claimant) is            | entitled to the unclaimed f                             | unds by trans  | fer, assignment, pur | chase, merger,  |
|       | owner(s) of the claim:                            | on by other mea            | ans, and below are the na                               | me(s) of the ( | Jwner of Record and  | all previous    |
|       |   |                            |   |                |                      |                 |
|       | If the Claimant is a Suc                          | cossor Claiman             | t, Applicant has sent a co                              | ny of the appl | ication to the Owner | of Record and a |
| -     | other previous owner(s)                           | ) of the claim at          | their current address or A                              | pplicant has ( | enclosed a statemen  |                 |
|       | Applicant was not able t                          | to do so or an e           | explanation of why doing s                              | o is not neces | ssary.               |                 |
| 3.    | Applicant Information                             |                            |   |                |                      |                 |
| Appl  | icant represents the follow                       | ving:                      |   |                |                      |                 |
|       |   | -                          |   |                |                      |                 |
|       | Applicant is the Claimar                          |                            |   | d funde lasse  |                      |                 |
|       |   | -                          | (e.g., attorney or unclaime<br>æased Claimant's estate. | a runas locati | orj.                 |                 |
|       | Applicant is a represent                          | auve or the dec            | eased Giaimant's estate.                                |                |                      |                 |

### **General Announcements**

- Weather delays and closings check WSB and the GANB website for official information.
- Recording of this meeting and the PowerPoint will be posted to the GANB website.
- Thank you for attending.
- Happy Thanksgiving to you and yours!



For additional information, or if you have questions about information contained in this presentation, please email: info@ganb.uscourts.gov