

# 2022 Annual Meeting with the Bar

---

M. Regina Thomas, Clerk of Court

November 4, 2022

# Statistics for 12-month period ending 9.30.22

---

- GANB is the 4<sup>th</sup> busiest BK court in the country - 14,559 cases filed - #1 in Chapter 13s
  - California Central - 17,836
  - Illinois Northern – 16,568
  - Florida Middle – 14,601
  - Michigan Eastern – 13,614
- Filings per 1,000 population – 2.02% – 13<sup>th</sup> highest in the country
  - Alabama Middle - ranks #1 with 4.36%
- 6.6% of all filings were pro se – 31st highest in the country
- Nationally, filings fell 11.7%

# Statistics (Cont'd)

---

- Calendar Year 2022 through 10.31.22 – GANB
  - Total filings are up 7%
    - 2022 – 12,474
    - 2021 – 11,609
  - Chapter 7s down 13%
  - Chapter 13s are up 26%
  - Chapter 11s are up 4%
  - 46 Subchapter V cases filed in 2022

# FY23 Budget

---

- Continuing Resolution ends at midnight December 16, 2022.
- 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!

# Virtual Hearings

## (Best Practices from the Court)

---

- 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.
- 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”.

# Virtual Hearings (Cont'd)

## (Best Practices from the Court)

---

- Headphones with a microphone should always be used if possible.
- A car is not an appropriate place to participate in a Zoom hearing, as a lawyer or as a party.
- Background matters - you should either have a plain background or one that is not too distracting.

# Virtual Hearings (Cont'd)

## (Best Practices from the Court)

---

- An attorney should dress for a Zoom hearing the same way one would dress for an in-person court appearance.
- Distance from the camera matters. Too close is no good and too far away is not good either.
- 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.

# Virtual Hearings (Cont'd)

## (Best Practices from the Court)

---

- Know how to mute and unmute yourself.
- 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.**



# NextGen News

<https://www.ganb.uscourts.gov/migration-cmecf-nextgen>

---

- All updates to ECF accounts need to come via PACER. On the NextGen page of our website, there is a job aid instructing how to submit account updates via PACER to our court. This is for any update to:
  - Address
  - Phone number(s)
  - Primary email
- If there is a change in employment or law firm name, email the ECF Helpdesk for direction before submitting changes via PACER.
- If a filing agent leaves your employment, remember to unlink them from your ECF account. There is a job aid for linking/unlinking filing agents on the NextGen page of the court's website.

# News, Announcements & Reminders

<http://www.ganb.uscourts.gov/emailupdates>

---

- Change in Policy for Cash Payments (10.20.21)
- Second Amended and Restated General Order 24-2018 (12.8.21)
- Debtor Electronic Bankruptcy Noticing (1.21.22)
- General Order 47-2022 – Assignment of Multiple Case Filings (2.14.22)
- General Order 48-2022 – Adoption of Amended Bankruptcy Rule 1020 to Reflect the Bankruptcy Threshold and Technical Corrections Act (BTATCA) Implementation (8.9.22)

# News, Announcements & Reminders

<http://www.ganb.uscourts.gov/emailupdates>

---

- Notice Regarding Reaffirmation Agreements (8.11.22)
- Notice Regarding Docketing of Audio Recordings (8.15.22)
- New Unclaimed Funds Procedures and Forms (8.23.22)
- Announcement of New Chief Judge, effective October 1, 2022 (9.27.22)

# Reminders

---

- Please Flatten Documents Before Filing - **Print to pdf NOT save to pdf**
- Use the Online Procedures Manual! An update is in process and more information will be provided in early 2023.

<https://www.ganb.uscourts.gov/Ops/OpsLive/OPSw-Home.htm#HomePage.htm>

# **Federal Rules and Forms Changes**

## **Effective December 1, 2022**

---

Bankruptcy Rules 3002, 5005, 7004, and 8023.  
Official Forms 101, 309E1, and 309E2

# Rule 3002

## Filing Proof of Claim or Interest

---

- Rule 3002(c)(6) is amended to provide a single standard for granting motions for an extension of time to file a POC, whether the creditor has a domestic address or a foreign address. If the notice for such creditor was “insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim,” the court may grant an extension.

# Rule 5005

## Filing and Transmittal of Papers

---

- Subdivision (b)(1) is amended to authorize the clerk or parties to transmit papers to the United States Trustee by electronic means in accordance with Rule 9036, regardless of whether the UST is a registered user with the court's electronic-filing system.
- Subdivision (b)(2) is amended to recognize that parties meeting transmittal obligations to the UST using the court's electronic-filing system need not file a statement evidencing transmittal under Rule 5005(b)(2).
- The amendment to subdivision (b)(2) also eliminates the statements evidencing transmittal filed under Rule 5005(b)(2) be verified.

# Rule 7004

## Process; Service of Summons, Complaint

---

- New Rule 7004(i) is intended to reject those cases interpreting Rule 7004(b)(3) and Rule 7004(h) to require service on a named officer, managing or general agent or other agent, rather than use of their titles. Service to corporation or partnership, unincorporated association or insured depository institution at its proper address directed to the attention of:

Chief Executive Officer

President

Officer for Receiving Service of Process

Managing Agent

General Agent

Officer

Agent for Receiving Service of Process

Other similar title is sufficient



# Rule 7004

## Process; Service of Summons, Complaint (Cont'd)

---

- Updated Service Manual incorporating the rule changes will be posted to the GANB website on 12.1.22
  - Located under the “Attorney Information” tab

# Rule 8023

## Voluntary Dismissal

---

- The amendment is intended to conform the rule to the revised version of Appellate Rule 42(b) on which it was modelled. It clarifies that the fees that must be paid are court fees, not attorney's fees. The rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration.
  - See e.g., Fed. R. Bankr. P. 9019 (requiring court approval of compromise or settlement).
  - The amendment clarifies that any order beyond mere dismissal – including approving a settlement, vacating, or remanding – requires a court order.

# Federal Rules Changes

## Effective December 1, 2022

---

Bankruptcy Rules 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016,  
3017.1, 3017.2 (new), 3018, and 3019.

These rules are related to the Small Business Reorganization Act of 2019 (SBRA)

# SBRA Related Rules

---

- This slide is added following the November 4, 2022 presentation to make clear that the Bankruptcy Rules changes effective 12/1/2022 related to the SBRA (see slides 21-33) codify the interim rules adopted by the Court in Amended and Restated General Order 30-2020 entered on December 10, 2020.
- Amended and Restated General Order 30-2020 may be viewed on the Court's website under the "Local Rules and General Orders" tab.

## Rule 1007

### Lists, Schedules, Statements, and Other Documents; Time Limits

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- As amended, subdivision (b)(5) of the rule includes an exception for subchapter V cases. Because Code § 1129(a)(15) is inapplicable to such cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income.
- Subdivision (h) is amended to provide that the duty to file a supplemental schedule under the rule terminates upon confirmation of the plan in a subchapter V case, unless the plan is confirmed under § 1191(b), in which case it terminates upon discharge as provided in § 1192.

# Rule 1020

## Chapter 11 Reorganization Case for Small Business Debtors

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- The title and subdivision (a) of the rule are amended to include that option and to require a small business debtor to state in its voluntary petition, or in a statement filed within 14 days after the order for relief is entered in an involuntary case, whether it elects to proceed under subchapter V. The rule does not address whether the court, on a case-by-case basis, may allow a debtor to make an election to proceed under subchapter V after the times specified in subdivision (a) or, if it can, under what conditions.
- Former subdivision (c) of the rule is deleted because the existence or level of activity of a creditors' committee is no longer a criterion for small-business-debtor status. The SBRA eliminated that portion of the definition of "small business debtor" in § 101(51D) of the Code.
- Former subdivision (d) is redesignated as subdivision (c), and the list of entities to be served is revised to reflect that in most small business and subchapter V cases there will not be a committee of creditors.

## Rule 2009

# Trustees for Estates When Joint Administration Ordered

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- In a case under that subchapter, § 1183 of the Code requires the United States trustee to appoint a trustee, so there will be no election. Accordingly, subdivisions (a) and (b) of the rule are amended to except cases under subchapter V from their coverage. Subdivision (c)(2), which addresses the appointment of trustees in jointly administered chapter 11 cases, is amended to make it applicable to cases under subchapter V.

## Rule 2012

# Substitution of Trustee or Successor Trustee; Accounting

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- Subdivision (a) of the rule is amended to include any case under that subchapter in which the debtor is removed as debtor in possession under § 1185 of the Code.



# Rule 2015

## Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- Subdivision (b) is amended to prescribe the duties of a debtor in possession, trustee, and debtor in a subchapter V case. Those cases are excepted from subdivision (a) because, unlike other chapter 11 cases, there will generally be both a trustee and a debtor in possession. Subdivision (b) also reflects that § 1187 of the Code prescribes reporting duties for the debtor in a subchapter V case.
- Former subdivisions (b), (c), (d), and (e) are redesignated (c), (d), (e), and (f) respectively.

# Rule 3010

Small Dividends and Payments in Cases under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- To avoid the undue cost and inconvenience of distributing small payments, the title and subdivision (b) are amended to include subchapter V cases.

# Rule 3011

## Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- The rule is amended to include such cases because § 347(a) of the Code applies to them.

# Rule 3014

## Election under §1111(b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- Because there generally will not be a disclosure statement in a subchapter V case, see § 1181(b) of the Code, the rule is amended to provide a deadline for making an election under § 1111(b) in such cases that is set by the court.

# Rule 3016

## Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- Subdivision (b) of the rule is amended to reflect that under § 1181(b) of the Code, § 1125 does not apply to subchapter V cases (and thus a disclosure statement is not required) unless the court for cause orders otherwise. Subdivision (d) is amended to include subchapter V cases as ones in which Official Forms are available for a reorganization plan and, when required, a disclosure statement.

# Rule 3017.1

## Court Consideration of Disclosure Statement in a Small Business Case or in a Case Under Subchapter V of Chapter 11

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- The title and subdivision (a) of the rule are amended to cover such cases when the court orders that § 1125 of the Code applies.

# Rule 3017.2 (NEW)

## Filing of Dates by the Court in Subchapter V Cases in Which There is No Disclosure Statement

---

- The rule is added in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- Because there generally will not be a disclosure statement in a subchapter V case, see § 1181(b) of the Code, the rule is added to authorize the court in such a case to act at a time other than when a disclosure statement is approved to set certain times and dates.

# Rule 3018

## Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case

---

- Subdivision (a) of the rule is amended to take account of the court's authority to set times under Rules 3017.1 and 3017.2 in small business cases and cases under subchapter V of chapter 11.



# Rule 3019

## Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case

---

- The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA). That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11.
- Subdivision (c) is added to the rule to govern requests to modify a plan after confirmation in such cases under § 1193(b) or (c) of the Code.

# Form 101

## Voluntary Petition for Individuals Filing for Bankruptcy

---

- Official Form 101 is amended to eliminate language in former Part 1, Question 4, which asked for “any business names . . . you have used in the last 8 years.” Instead, Part 1, Question 2, adds to the direction with respect to “other names you have used in the last 8 years” —which currently directs the debtor to “Include your married and maiden names”—to ask the debtor to include “any assumed, trade names, or *doing business as* names,” and to direct that the debtor should not include the names of separate legal entities that are not filing the petition.
- Many individual debtors erroneously believed that Question 4 was asking for the names of corporations or limited liability corporations in which they held any interest in the past 8 years, and any names listed in response were then treated as additional debtors for purposes of noticing and reporting. By asking for the information in Question 2, the form now makes it clearer that the only names to be listed are names that were used by the debtor personally in conducting business, not names used by other legal entities. This amendment also conforms Official Form 101 to Official Forms 105, 201, and 205 with respect to the same information.

Form 309E1  
Notice of Chapter 11 Bankruptcy Case for Individuals or Joint  
Debtors

---

- Line 7 - “Deadlines” is amended to clarify which deadline applies for filing complaints to deny the debtor a discharge and which applies for filing complaints seeking to except a particular debt from discharge.

## Form 309E2

# Notice of Chapter 11 Bankruptcy Case for Individuals or Joint Debtors under Subchapter V

---

- Line 8 – “Deadlines” is amended to clarify which deadline applies for filing complaints to deny the debtor a discharge and which applies for filing complaints seeking to except a particular debt from discharge.

# DeBN

## Debtor Electronic Bankruptcy Noticing

---

- [Debtor Electronic Bankruptcy Noticing \(DeBN\) | Northern District of Georgia | United States Bankruptcy Court \(uscourts.gov\)](#)
- Available for pro se and represented debtors
- Notice to Debtor Regarding DeBN served by BNC

# Announcements from the UST and Chapter 13 Trustees

---

United States Trustee - § 341 Zoom meetings of creditors

- A pilot program is underway in Region 19 and will eventually rollout nationwide. There is no start date for Region 21 (Georgia, Florida, Puerto Rico and the Virgin Islands) at this time.

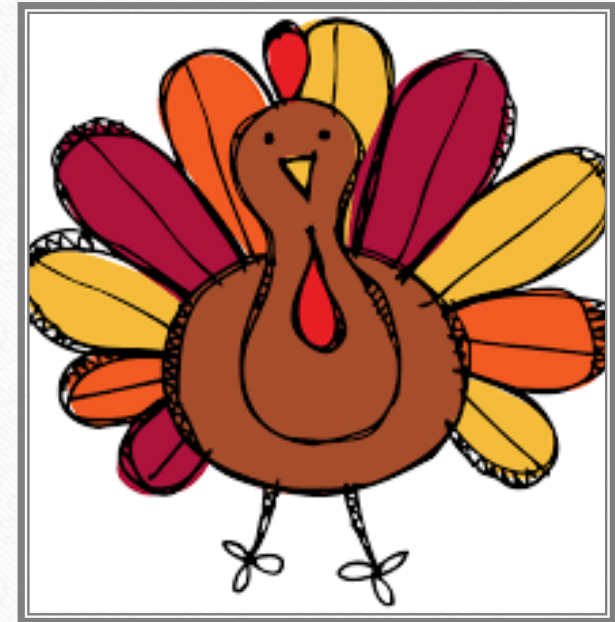
Chapter 13 Trustees - Financial Management Certificates – all three trustees will offer free online financial courses in English and Spanish.

- Office of Melissa J. Davey – courses are available now for debtors in cases in which she serves as the trustee. Please see Ms. Davey's website for additional information ([Melissa J. Davey – Standing Chapter 13 Trustee \(13trusteeatlanta.net\)](http://13trusteeatlanta.net))
- Office of Nancy J. Whaley – courses will be available for debtors assigned to Ms. Whaley in mid-December.
- Office of K. Edward Safir – Mr. Safir hopes to offer this course for debtors in cases assigned to him, but there is no start date as this time.

# 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!





Questions?

---