



Bankruptcy Clerk's Newsletter

Volume I
January 1999

PLAN *For the Future*

ELECTRONIC CASE MANAGEMENT

By Jim Snyder and Dianne Schmitz

In July 1998, a team from the Bankruptcy Clerk's Office was sent on a fact-finding mission to determine the needs of the Court regarding electronic case management issues. Several imaging systems were considered and viewed. It was decided that the system best suited for our needs was developed and supported by Wade Systems, Inc. located in Oklahoma City, OK.

About Wade Systems, Inc.

Wade Systems worked with business and government to develop complete information management solutions. These systems ranged from business accounting, government fund accounting, county land records imaging, and custom software development. Wade Systems assisted the U.S. Bankruptcy Court in Oklahoma City, OK with a complete electronic case files system. With the expertise acquired by working with the Court, Wade Systems began selling and supporting electronic case management nationwide. Today, Wade Systems is the number one electronic case files solutions provider for the U.S. Bankruptcy and U.S. District Courts in the nation.

Overview

There were several needs that were considered when we chose an imaging system:

- The building of a complete electronic case file for internal and remote public access. One of the overriding goals was to replace the traditional paper case file with a complete electronic case file available to both internal and external customers.
- Real Time Access to Bancap. This provides complete access flexibility with no delays. The imaged documents can be viewed by the click of a button when viewing a case docket sheet.
- Future enhancement to include Electronic Filing via Internet and Dial Up.

- Increased document integrity. Insures that every document is scanned when it is received, thus eliminating the lost or misplaced documents.
- Reduce case administration work load
- Disaster Recovery

Hardware Requirements

Our hardware requirements were defined in the infancy stages of the project, as we purchased the hardware over a period of two fiscal years. We are currently operating with (4) Fujitsu 27-ppm (Page Per Minute) desktop scanners that are used primarily by the case managers. Keyboards that have the ability to type and scan documents were purchased for the remaining personnel. This allows all employees to have access to scanning at a minimal cost. Ideally we would have liked the scanners to run off our network, but the cost of additional wiring made this option not a viable one. All users have a computer with at least 64 MB of memory and running at or above 233 MHZ in speed. We knew that in order for scanning to be effective we would have to have a combination of computer and network speed. Consequently, we also purchased a 300 MHZ Hewlett Packard Netserver for our image server. This server came with 256 MB of memory and 18 Gig of Ram. Needless to say we wanted a powerful server to manage images. We elected to purchase enough drive space for what we determined to be approximately 4 years of image storage. We are anticipating that we will implement a different compression scheme called PDF (Portable Document Format) that will reduce the stored imaged size by 50%. Our drives are also hot-swappable so that we can add or replace drives when necessary. In the event that one of the drives should fail, we can remove the failed drive and replace it with a new drive without ever turning the machine off. Since moving into the Quentin N. Burdick U.S. Courthouse in May of 1998, we have been running on a 100-MB Ethernet network with 100-MB hubs on each floor and fiber connecting each floor running back to the computer room. Moving images over this network is effortless as the system is designed for optimal speed.

Goals

Since the inception of this project, our primary goal has shifted from that of disaster recovery to the ability to provide images of all court records to our customers via world wide web site at www.ndb.uscourts.gov.

JUDGE HILLS'S COMPENDIUM OF DECISIONS

You will note that Judge Hill's existing compendium of decisions is accessible on our public web site under Chambers. This site will be updated as frequently as needed. Printed copies and disks will no longer be automatically distributed. If Internet access is unavailable to you and you would like to receive a printed

copy or a disk, please contact Linda Meister, Secretary to The Honorable William A. Hill at 701-297-7140.

It is our intention to provide you with a full text opinion retrieval system in the near future. The system, when it becomes available, will offer a sophisticated search mechanism and access to the entire written opinion. We will let you know as soon as it is available.

["WWW.NDB.USCOURTS.GOV"](http://WWW.NDB.USCOURTS.GOV)
On-Line Home
of the North Dakota Bankruptcy Court
By Ron Davies, Systems Administrator

PLAN
For the Future

Happy New Year! 1998 was quite a year for technology in the Bankruptcy Court for the District of North Dakota. In addition to completing some major system upgrades and moving into a new building, and all the fun related to moving our "home", we found time to develop a home page on the World Wide Web. In our July 1998 Newsletter, we informed you of our presence and some of the items we would have and would like to have had available for you. Since that time, a lot has happened and the content of the page as well as what is on the horizon, has changed considerably.

In November, we held a service month seminar in Fargo at the new Quentin N. Burdick U.S. Courthouse. While we had high hopes for the number of attendees (60 plus from all over the state signed up to attend), Mother Nature had other ideas. A nasty storm struck the majority of the state the day before the seminar and prevented many of the people registered from being able to attend. We were not about to let Mother Nature get the best of us, so with a hearty shout of "The Show Must Go On!" we went ahead with the seminar. In the morning session, information was presented regarding the Internet in general...how to get connected, what type of hardware and software is required, information on what the Internet is and how to get around on it, and more. In the afternoon, we shifted gears to talk specifically about www.ndb.uscourts.gov, our on-line home. Each category on our web site was covered in detail, from local rules to the incredible numbers of forms we have made available on-line, even Judge Hill's case compendium. A demonstration of the incredible amount of law-related information on the Internet - how to find it and examples of how to use it - was also presented. Finally, seminar attendees were given the opportunity to experience, hands-on, the Internet and our home-page for themselves in our Technology Training Center. Unfortunately, the weather prevented Michael Wagner from presenting at the seminar. Mr. Wagner did however, send us the information he was going to present at the seminar, and we have included that information as well as the rest of the material that was presented, on our home page under the "Internet Seminar" section. Special thanks to Mr. Wagner for his time and contribution to the seminar. Feedback from the seminar was very positive. The Federal Practice Committee will sponsor us in another presentation on March 12, 1999 at the Holiday Inn in Bismarck. Contact the State Bar Association for more information.

Here is a current listing as of January 6, 1999 of the sections on our home page www.ndb.uscourts.gov

1. **What's New:** As we make changes to the site, we will announce them here. The newsletters, including this one, will be posted here as well.
2. **Contact Information:** How to contact us; addresses, phone and fax numbers and e-mail.
3. **Location Information:** Maps to and addresses of 341 meeting locations and courthouses.
4. **Forms & Information:** Large collection of Bankruptcy related forms and informational documents. Check these out.
5. **Court Calendar:** Updated frequently.
6. **Chambers:** This section is for information straight from the chambers of Judge Hill. Currently, it includes his extensive case compendium and we are working on making his opinions available...stay tuned to this section.
7. **Local Rules:** Local Rules for the U.S. Bankruptcy Court.
8. **Site Requirements:** A list of requirements and recommendations for configuring your computer for the most pleasant visit.
9. **Links of Interest:** A categorical listing of a HUGE number of helpful and interesting sites. Check this section out, there is a wealth of great links here.
10. **Internet Seminar:** All of the documentation from our Internet Seminar.
11. **Site Map:** A quick listing of the sections and information available on www.ndb.uscourts.gov.

What does the future and specifically 1999 have in store for electronic access to the U.S. Bankruptcy Court for the District of North Dakota? The answer: A LOT!!!

On January 4, we began a new project to scan all court documents related to a particular case. While we are not yet able to make this case information available to you via the Internet, you can stop in and access it via our public terminal computer, located in the clerk's office right now. Don't worry, we plan on making case information/documents accessible via the Internet to you in your offices and/or homes, but it will be some time before that is possible. We will keep you posted as to the progress of that project. For more detailed information, check out the article by Dianne Schmitz and Jim Snyder regarding the imaging project.

We are still developing Judge Hill's Opinion/Order retrieval system with the intent of making it available too via the Internet. Again, this is some time away from being available via the Internet, but we will keep you posted.

Of course we will be constantly updating and improving our home page at www.ndb.uscourts.gov. Check out the site often to see announcements and get the latest information we have to offer you. If you have comments and/or suggestions regarding the site, please feel free to contact us at webmaster@ndb.uscourts.gov. We welcome and encourage any comments.

As you can see, we are working every day to provide you with as much information as possible as quickly and in the most convenient forms possible. 1998 was a great year for us and 1999 looks to be even better.

BANKRUPTCY COURT IN BISMARCK

By Sharon Horsager, Courtroom Deputy

Beginning in March 1999, you will see the Bankruptcy Court holding court hearings in a new location. The Bismarck Federal Building/Courthouse Renovation Project is nearing completion with a projected finalization date of the end of February 1999. The visiting judges courtroom and chambers will be housed on the ground floor.

According to Edward J. Klecker, Clerk, U.S. District Court:

1. The courtroom will be fully accessible to the handicapped and equipped with state of the art sound and video equipment.

2. The U.S. Probation Office has already moved from the fourth floor to the ground floor.

3. With the move of the IRS out of the building, the Marshals Service has been able to expand their office space and training room on the third floor.

4. The Court Security Officers have already occupied their space on the ground floor.

5. A dedication ceremony and open house is planned following completion of the project.

Keep an eye on our hearing notices for direction on where a hearing will be held. We will also make sure that the court security officers direct Bismarck participants to the appropriate location.



BANKRUPTCY REFORMS TO BE CONSIDERED BY CONGRESS

From Bruce Gering, Assistant United States Trustee

According to a recent study, the bankruptcy reform legislation proposed last year would not have accomplished the goals of the credit industry that was pressing for the legislation.

One of the key components of the legislation that nearly passed in Congress last year was a means-testing criteria designed to deny chapter 7 relief to debtors who had an ability to repay a portion of their unsecured debt. Because all of the Representatives and Senators who were supporting the reforms are back in Washington, it is likely that similar reforms will be proposed again.

Under the means-testing provision, a Chapter 7 debtor whose gross income was at least equal to the national median income, whose net monthly income after paying secured and priority debts and living expenses exceeded \$50, and who could repay at least 20 percent of unsecured debts over five years would be converted to a Chapter 13 proceeding.

Studies by the credit card industry claimed that this provision would result in 15 percent of Chapter 7 cases being converted, which would result in \$4 billion in additional payments to the credit industry. However, an independent study by American Bankruptcy Institute, a nonpartisan organization dedicated to research and education, claims that only three percent of Chapter 7 filers would be affected by the means testing provision, netting the credit industry at most \$800 million in new dollars from converted Chapter 13 plan repayments. And even that projection appears optimistic considering the fact that currently 2/3 of all Chapter 13 plans fail before they are completed by the debtors.

Perhaps this study will enable Congress to focus on meaningful bankruptcy reforms, including those proposed by the Bankruptcy Review Commission. All bankruptcy practitioners should follow the legislation that will soon be introduced, and notify their Congressmen about their opinions.



BANKRUPTCY APPELLATE PANEL

By Sharon Horsager

Just a reminder that North Dakota is a participating district in the Bankruptcy Appellate Panel.

Any decision that is appealed will be appealed to the Bankruptcy Appellate Panel unless an Election to have appeal heard by the District Court is timely filed. If you would like to know more about the Bankruptcy Appellate Panel - procedures, rules, etc... - please contact Cindy Harrison at (314) 539-3545 or Sharon Horsager at (701) 297-7142.



CODE CHANGES

Pub.L. No. 105-277, signed into law on October 21, 1998 reenacted Chapter 12 from October 1, 1998 and ending on April 1, 1999. All cases pending on April 1, 1999 shall continue to be governed as though Chapter 12 were continued in effect after April 1, 1999.

Pub.L. No. 105-244 amended 11 U.S.C. 523(a)(8) removing the exception to nondischargeability of a student loan if it first became due more than 7 years before the date of filing the petition.

Pub.L. No. 105-183 excepts some charitable contributions from avoidance by a trustee under 11 U.S.C. 544 and as fraudulent transfers under 11 U.S.C. 548. This law also prohibits a court from considering charitable contributions in 11 U.S.C. 707 issues and also excludes charitable contributions from the definition of disposable income under 11 U.S.C. 1325.

DEFICIENCY NOTICES-TIPS

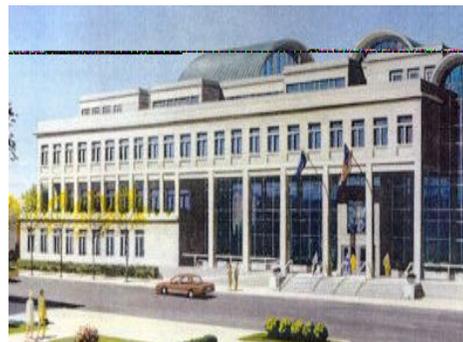
Deficiency notices are issued by the clerks office for corrections to documents. The usual reason is that a signature on the petition page is lacking. Scanning of all documents in 1999 cases will begin on January 4, 1999. The program will not allow us to override just one page. Consequently, any document that is not signed and has been returned to you for signature cannot be scanned into a data base until corrected. We ask that you help us by making the corrections quickly and submitting the document by return mail.

TOURS OF THE QUENTIN N. BURDICK U.S. COURTHOUSE

By Kay Melquist, Deputy Clerk

Do you belong to a group or organization that would be interested in a tour of the Quentin N. Burdick U.S. Courthouse? If so, a tour committee has been organized for just that purpose! The tour committee includes representatives from each agency in the courthouse.

The District Court Clerk's Office with assistance from the tour committee has provided numerous tours for a variety of organizations. Boy Scouts, Chamber of Commerce of Fargo-Moorhead, area librarians, Discovery students, ND State School of Science students, Lions Club and the Federal Executive Association are just a few of the organizations that have received tours. The tours can be tailored to each group's interest; some groups have had the opportunity to visit a Judge's Chambers, while others have had a full demonstration of the courtroom technology currently available. Any tour committee member may be contacted to arrange a tour of the new facility, but feel free to contact the representatives of the Bankruptcy Clerk's Office, Angie Altringer at 297-7102 or Kay Melquist at 297-7014 with any questions or to schedule a tour!



DEBTORS' ATTORNEYS MUST SEEK COMPENSATION

From Bruce Gering, Assistant United States Trustee



The United States Trustee has noted that some attorneys and other professionals representing debtors or the bankruptcy estate are not seeking court approval for compensation or reimbursement of expenses which they receive from bankruptcy estate assets.

Upon the filing of a petition, an estate is created which consists of the assets described in 11 U.S.C. § 541(a). Before a professional may be compensated from those assets, he or she must file an application and schedule a hearing in accordance with 11 U.S.C. § 330 and Federal Rule of Bankruptcy Procedure 2016. Local Bankruptcy Rule 2002-3 provides that a hearing on the application is only necessary if an objection to the application is filed. If the professional accepts a retainer, it must be held in a trust account until the court awards the fees.

If the case is filed under Chapter 12 or Chapter 11, the debtor must seek court approval of the employment under 11 U.S.C. § 327 and F.R. Bankr.P. 2014 prior to the time the professional renders the services. Other chapters do not normally require court approval of the employment, but again, any professional who is compensated from estate assets must apply for court approval prior to taking the compensation.

Also, separate from the fee application process, all attorneys must file a disclosure of compensation received or expected to be received per 11 U.S.C. § 329 and F.R. Bankr.P. 2016(b). Most attorneys file this statement with the petition. However, Rule 2016(b) also provides that if an attorney receives any additional funds not disclosed on a previous statement, a supplemental statement must be filed and transmitted to the United States Trustee within 15 days after any payment or agreement not previously disclosed. The United States Trustee has never received such a supplemental agreement.

The United States Trustee's office has undertaken a project to research compliance with the bankruptcy code and rules, and to bring discrepancies to the Court's attention. Questions regarding fee applications may be directed to the Assistant United States Trustee at (605) 330-4450.

BANKRUPTCY COURT STATISTICS

Please see the attached statistics for the year ending December 31, 1998.