



# Bankruptcy Clerk's Newsletter

Volume II  
July 1999

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## APPROPRIATE COURTROOM DRESS

*By Judge William A. Hill*

**“Persons shall be fully clothed in an attire suitable to the maintenance of the dignity of the court.”** Rule 83.2(c)(4) Local Rules of the United States District Court for the District of North Dakota and Local Rule 5072.1(c)(4) of the Local Rules of Bankruptcy Procedure for the District of North Dakota.

**“All lawyers and court officials during court appearances shall refrain from wearing articles of clothing suitable primarily for sports or leisure time activities.”** Rule 10.1(b)(5) North Dakota Rules of Court.

It is unfortunate, in the face of the above rules, that attorneys need to be reminded that “casual” wear is inappropriate for court appearances. Jeans, open-shirts, golf shirts, and the like are not acceptable. “If you golf in it or mow the lawn in it, do not appear in court in it.” It is expected that attorneys appearing before the United States Bankruptcy Court will dress in professional business attire. For males, this means coat and tie.

## CHAPTER 12

On March 12, 1999, President Clinton signed into law H.R. 808 which extends Chapter 12 another six months, to October 1, 1999. For further developments as we get closer to the October 1, 1999 date please check our web page at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov).



## BANKRUPTCY APPELLATE PANEL

*By Sharon  
Horsager*

The Bankruptcy Appellate Panel will again be sitting in Fargo. The following cases are tentatively set to be heard on Tuesday morning, August 24, 1999 beginning at 9:00 a.m.: #99-6039 - Kip M. Kaler v. Kirby D. McLaren and #99-6031 - Workers Comp. Bureau v. Steven L. Voightman. The hearings will be held in the Bankruptcy Courtroom on 2<sup>nd</sup> Floor.



## COURT LOCATIONS IN BISMARCK

With the completion of the Eagle Courtroom in Bismarck, we now have three full-use courtrooms available for our use. Please check your notices carefully as we will use all three courtrooms.



## DAMIEN RIEHL LEAVES CLERKS OFFICE

Damien Riehl has been a deputy clerk in the Bankruptcy Clerk's office for a couple years. Many of you have seen or heard him at a variety of Internet workshops. The lawyers we work with have so inspired Damien that he has decided to continue his education. He will start at William Mitchell Law School this fall.

## REAFFIRMATION FORMS

Attached to this newsletter is a revised procedural Form B 240 for reaffirming a debt. The form was developed by the Advisory Committee on Bankruptcy Rules. Use of the form is not mandatory but recommended. The predecessor has become outdated and the new form incorporates requirements added to the Bankruptcy Code by the Bankruptcy Reform Act of 1994 and also adopts suggestions made in a final report of the National Bankruptcy Review Commission.

## CHANGE OF ADDRESS

Please make note of the change of address for Firststar Bank, Elan Card Services, f/d/b/a Star Bank:

**Firststar Bank  
Elan Card Services, f/d/b/a Star Bank  
P.O. Box 5229  
Cincinnati, OH 45201**

## WEB PAGE & MORE

*By Ellen A. Johanson, Clerk of Court*

Our web page has been public for about a year and we hope you are all using it and becoming familiar with it. In recent months we have added subpoena forms, Judge Hill has updated his case compendium and we have a link to the U.S. District Court's new web page - [www.ndd.uscourts.gov](http://www.ndd.uscourts.gov). We have also removed some things that weren't hit often, could easily be found elsewhere, or gave an appearance of junk material. As with any page, it is always in a stage of construction, with aspirations of improvement with each change. Occasionally, when you open the page, it might look different but we hope it is easier to use.

Please contact the web master with your e-mail if you have any suggestions for useful additions that the public in general would use. We plan to have public access (PACERNET) available to you on the net soon. When that happens, we will also be able to offer Judge Hill's full text decisions along with good search mechanisms. We should be able to offer opinion retrievals without charge.

If you aren't familiar with our page, take a look. We hope you like it.



## ELECTRONIC FILING WITH THE NORTH DAKOTA BANKRUPTCY COURT

*By Jim Snyder, Systems Manager*

Imagine doing your Bankruptcy Filing on line, over the World Wide Web. You could file a Bankruptcy petition or motion and even docket some of the events. You would have the ability to file documents over the Internet 24 hours a day, 7 days a week in accordance with local court rules. No waiting and no time spent waiting on the mail. This type of interaction with the Bankruptcy Court is not far from a reality. A handful of courts in the nation are testing this type of filing with a great degree of success. While most of these courts are District Courts, they are finding that this is speeding up a lot of the court's daily business.

The Administrative Office of the U.S. Courts is developing this new system. Another company, Wade Systems Inc. is working on a similar product. This system will help determine whether inexpensive technology that is widely available today can meet the demanding needs of a diverse group of law firms litigating a wide variety of cases. If successful, electronic filing will streamline the typically labor-intensive process of generating documents, filing them with the court and making the documents available to all parties in litigation. Electronic filing has the potential to provide substantial savings to attorneys, their clients and the court while improving access to the courts records.

The current proposed requirements are your own PC, Windows 95, 98, or NT and Adobe Acrobat for writing a file to a PDF format (Portable Document Format) and of course, access to the World Wide Web.

While this might sound like the "answer" to some, it will no doubt give others chills. I envision this as yet another step in the growth of the Bankruptcy Court in Fargo, North Dakota in the future. We still pride ourselves on our contact with our customers and servicing their needs. We would wait until a time when a system like this becomes bug free and fully functional on a national level, and, when Judge Hill feels that the time is right

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### NORTH DAKOTA BANKRUPTCY STATISTICS FOR SIX MONTH PERIOD ENDING JUNE 30, 1999

	<u>1998</u>	<u>1999</u>	<u>CHANGE</u>
Cases	1130	1118	- 1 %
Estates	1576	1582	. 4 %
Joint Cases	446	464	4 %
Business Cases	65	60	- 8 %
Chapter 7 Cases	1070	1048	- 2 %
Chapter 11 Cases	1	1	
Chapter 12 Cases	17	24	41 %
Chapter 13 Cases	42	45	7 %
Farm Related Cases	17	24	41 %
Adversary Proceedings	45	53	18 %

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## PROPOSED BANKRUPTCY CODE REVISIONS REQUIRE CREDIT COUNSELING

*From Bruce Gering, Assistant United States Trustee*

As most bankruptcy practitioners know, Congress has again been considering substantial revisions to the bankruptcy code. The House Bill (H.R. 833) passed by an overwhelming majority several months ago. The Senate Bill (S. 625) has not yet been considered by the full Senate, and it now appears that the bill may not be considered until September. However, it does seem likely that Congress will pass some form of bankruptcy code revisions before the end of the year.

Both the House and the Senate versions of the reforms include a requirement that debtors must have participated in consumer credit counseling within 90 days of filing their bankruptcy petition. This requirement may be waived if the U.S. Trustee determines that approved credit counseling services for a district were not reasonably able to provide adequate services. Also, in certain cases of dire necessity, debtors may be allowed to complete the counseling after they file their petition. Credit counseling services are those that attempt to resolve debts through the formulation of individual debt repayment plans outside of bankruptcy.

According to the House bill, the credit counseling provision would require debtors to participate in an individual or group briefing that outlines opportunities for available credit counseling and helps them perform an initial

“budget analysis”. Although that term is not defined in H.R. 833, it appears to contemplate an analysis of the debtor’s income and expenses, including all secured and unsecured debts and considering the debtor’s available disposable income, to determine whether the debtor can pay creditors through a debt repayment plan without imposing undue hardship on the debtor or the debtor’s dependents.

The United States Trustee offices will be given the responsibility of approving credit counseling services. Approved services would be included on a list provided to debtors by the bankruptcy clerk. Only the listed agencies would be authorized to provide the certificate of compliance that debtors must file with the bankruptcy court when they file their petition. The United States Trustee would also be charged with filing motions to dismiss any case in which the debtors had not complied with the requirement.

The means testing criteria of the proposed legislation which we discussed in the last issue of this newsletter would affect only those debtors who earn more than the national median income. However, the credit counseling requirement will affect every person who wants to obtain chapter 7 relief.

### FEDERAL COURT PHONE NUMBERS

The phone listing for the federal courthouse located at 655 1<sup>st</sup> Avenue North is being copied with permission of the writer.



## LOOKING BACK

*By Ellen A. Johanson, Clerk of Court*

As you all know, I am having fun looking forward to the changes in court administration that we will experience in the new millennium. I am also enjoying reviewing the changes that have taken place during my career in the Bankruptcy Court. Almost all the changes have been positive for bankruptcy practice. Note that each decade describes more changes.

### **1970's: Judge Gordon Thompson**

Jurisdiction and Administration: Legislative discussions took place in the 1970's which questioned the bankruptcy court's constitutionality or identity. In the late 1970's the Bankruptcy Act was abolished and replaced by a new statutory framework now commonly called Bankruptcy Code. This new law established bankruptcy courts as "adjuncts" to the district courts. It granted bankruptcy courts authority to "exercise all of the jurisdiction conferred" on the district courts. Our district piloted the U.S. Trustee system which eventually became a national program. Operations: All bankruptcy notices were retyped on plastic sheeted forms for reproduction on a mimeograph machine. Each piece of mail was hand-stuffed and sealed. Fees: The filing fee for a Chapter 7 case was \$60.00. Copies were \$.50 per page. Caseload 1975: 381

### **Early 1980's: Judge Harold Bullis**

#### **Mid 1980's: Judge William A. Hill**

Jurisdiction and Administration: In the 1980's a supreme court decision removed the bankruptcy court's jurisdictional authority and threw the court's identity into chaos. The bankruptcy court did not exist for a very short while and bankruptcy court employees temporarily became employees of the U.S. District Court. Later, parts of the Bankruptcy Code were rewritten and bankruptcy courts were reestablished as "units" of the district court. District courts were given authority to refer cases to the bankruptcy court. In 1989 the Supreme Court ruled that bankruptcy courts could hold jury trials. Chapter 12 became a welcome relief to family farmers. Operations: In 1984 we received our first computer. Later in this decade we started using a national automated docket system, a technical word processing program. We also used a facsimile machine for the first time. Fees: By 1986 Chapter 7 filing fee rose to \$90.00. Copies were \$.50 per page. Caseload 1985: 810

### **1990's: Judge William A. Hill**

Jurisdiction and Administration: In the 1990's more tinkering was done to fine tune the bankruptcy laws and The National Bankruptcy Review Commission was established to study how the bankruptcy courts operate - both in organization and in its laws. Several national recommendations from the review commission are being considered at the time of this writing. (See the U.S. Trustee's article in this Newsletter.) On October 1, 1997, North Dakota bankruptcy appeals could be taken to the Bankruptcy Appellate Panel. Operations: Bankruptcy Courts nationally began using a much more sophisticated docketing system and early in this decade an interested party could actually verify whether or not a case had been filed by using a telephone with a voice synthesizer on the other end! Yessiree - what more could we want? Other types of electronic public access also started to get some attention and the PACER system has been in place for many years. The Bankruptcy Noticing Center was established and most notices are mailed by a central commercial vendor. By the end of the decade almost all federal courts have a web page with useful forms and court information; courtrooms are equipped with video monitors which can provide a variety of information to a judge, litigants and jurors such as evidence examination, electronic data, real time court reporting and video conferencing. Electronic docketing is piloted in some courts. Electronic noticing is offered to interested attorneys and creditors. Fees: The filing fee for a Chapter 7 case is \$175.00. Copies are still \$.50 page! Some things never change. Caseload 1995: 1301. Projected Caseload for 1999: 2230.

# Oops! Federal court phone numbers left out of directory

By Ellen Crawford  
The Forum

Need a phone number for an office in Fargo's federal courthouse?

Don't bother looking in the new U S West directory.

It's not there.

U S West Dex Inc., which publishes U S West's directories, left out phone numbers in the blue-tabbed government section of the March 1999/2000 book for all but one of the offices in the new half of the courthouse complex.

The lone exception is the U.S. Marshal Service. Unfortunately, the directory lists the office's old number.

The number for the federal probation and pretrial service office, which is in the building next door to the courthouse, also was omitted.

"It was a mistake," Kent Blickensderfer, U S West's media relations manager for North Dakota, said Friday.

"Obviously, one mistake is one too many when it's your phone number," he added.

"Unfortunately, it happens once in awhile in this age of computers and transfer of technology," he said.

Federal employees noticed their office numbers weren't listed when they received their copy of the new directory earlier this month, according to courthouse systems administrator Ron Davies. They contacted U S West right away. U W West officials weren't aware of the error, Davies said.

U.S. District Judge Rodney

## Missing numbers in the U S West directory

### Bankruptcy court

Clerk of court	297-7100
Judge William Hill	297-7140
Voice case information system	297-7166

### 8th U.S. Circuit Court of Appeals

Judge Frank Magill	297-7250
Judge Myron Bright	297-7260
8th Circuit library	297-7280

### District court

Clerk of court	297-7000
Judge Rodney Webb	297-7040
Magistrate Karen Klein	297-7070
Probation and pretrial services (112 Roberts St. N.)	297-7200

### U.S. Justice Department

U.S. Marshal Service	297-7300
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The phone numbers and addresses for these federal offices in Fargo were left out of the new U S West directory. The address of the federal courthouse is 655 1st Ave. N.

Dawn Brehm / Forum Graphics Editor

Webb said courthouse officials are worried people might miss deadlines to file papers in U.S. District or U.S. Bankruptcy Court. He said the missing phone numbers also could create a nightmare for probation officials trying to keep track of their probationers and a handy excuse for those on probation not to check in as required.

"We're frustrated and concerned," he said.

At first Webb thought the mix-

up happened because the courts moved from the old to the new part of the courthouse last year. However, the 1998 phone directory had the correct numbers, he said.

U S West has made sure the numbers are available through Directory Assistance by dialing 411 or on the Internet at uswestdex.com, Blickensderfer said.

The numbers also will be included in the next directory, due out in September, he said.