

HALLOWEEN SWAN SONG - '03

Reports of the demise of my epistles have been exaggerated . . . but not by much! Those nasty budget constraints I have been telling you about, combined with the timely general availability of Internet access, team up to mean this will in all likelihood be my last. Yet there is still this spine tingling one. However when reading all the important stuff below, please don't forget the very sound adage to not kill the messenger!

The net result is that from this SECOND on, to keep you, your clients, the PLF, etc. happy you must **CONSTANTLY MONITOR** our website at www.orb.uscourts.gov ! If you haven't already, please **IMMEDIATELY** bookmark or favoritize that site or I can't help you get through the ever changing morass called bankruptcy beyond the few teasers below. Once again - www.orb.uscourts.gov .

REQUEST FOR A HIATUS ON DOCUMENT FILING

We desperately need your help and patience! As you may, or soon will, know, this court will leap off the Electronic Case File cliff starting COB 11/7/03. Among other things, we are going to try to image every document you file after that date until we can get you filing electronically; an enormous task that I'm told by other courts may even put us behind in our docketing for awhile I'm sad to say. If so, any patience you can muster will be tremendously appreciated!

Therefore, PLEASE, PLEASE FILE **ONLY EMERGENCY** DOCUMENTS **FROM** Tuesday, November 4, 2003 **THROUGH** Monday, November 17, 2003 (i.e., only 9 business days since we are closed Tuesday, 11/11 in observance of Veterans' Day). If you can hold out even longer, that would really be cool!

FEE INCREASES - EFF. 11/1/03

You may actually wish to file as much as you can before 11/1, because on that day virtually every fee increases (e.g., Ch7 - \$209; Ch13 - \$194; Appeals - \$255; Relief Motions - \$150; etc., etc., and so forth as my favorite king used to say to Anna). See that website I told you about for details.

FRBP AMENDMENTS - EFF. 12/1/03

The annual Fed. Rule amendments hit again on 12/1. The two main themes are privacy and ownership disclosure. The former brings a new Off. Form for filing SSNs with a paper Petition. It will also mean §341(a) notices sent to creditors will have all 9 digits of an SSN, but no court copy of it nor any other notice will. The only way you can obtain debtor info using an SSN is if you already know all 9 digits.

As for Ownership Disclosure Statements, the new FRBPs will abrogate pt. 8 of GO #01-1 per the court's impending new Gen. Order (GO) which will magically appear on our nifty website in the very NEAR future.

LOCAL FORM (LBF) UPDATES

In order to implement ECF (yes, I will talk more about this below) an extensive overhaul of our LBFs is necessary. The LBF updates will be placed on our website about the same time the new GO comes out (i.e., SOON). You must download them off that site either individually or via the zip file. I DO APOLOGIZE, but you will have to begin using them pretty quickly and paper copies will not be available unless you certify that you can't download them (i.e., blame that annoying fiscal problem). And don't forget to DISCARD **ALL OLD** versions!

The modifications generally coincide with the format change to require a 4 inch margin at the top of page one of any document requiring a judge's signature, rewording to accommodate the minor case number change, standardization on "service" instead of "mail", updates to clarify from which date an objection period runs, and other occasional references to upcoming ECF features.

Want another reason to not stop eyeballing our site at www.orb.uscourts.gov ? In addition to further necessary LBF updates for ECF, the court will soon be disseminating new standardized Stay Relief Motions and Orders that should also help everyone.

NO MORE "UNAVAILABLE" DATES OR LBF #102

Here comes what you may consider the biggest "Trick" we put in your goody bag. Effective Wednesday, 11/5/03, the court will no longer accept lists of dates that are inconvenient or "unavailable" to you or your client for the setting of §341(a) meetings (i.e., rendering the current LBF #102 obsolete). This is due to the automatic assignment feature of ECF (that I'm just about ready to describe).

Additionally, the US Trustee's office has set forth a new policy (albeit similar to that in other courts) that carefully defines the rescheduling process. A copy of that policy, along with the court's companion GO provisions regarding any subsequent motions to the court, will soon be on the web site and court bulletin boards. Remember, a debtor's failure to appear at any scheduled meeting of creditors shall generally result in case dismissal soon after such meeting if an appropriate motion to reschedule is not promptly filed!

Please read the policy and GO provisions carefully, as they are far more restrictive than those of the past. Further, I have been informed that they will be strictly enforced by the UST and court.

One thing this means is that those of you without partners to cover your back will need to, as Emeril says, "Go make friends". Don't forget that 341(a) calendars are also posted on the website so you can see who else has hearings around the time yours are set. Yes, we will still batch settings for your cases filed at the same time.

Are we totally devoid of feeling? No, just trapped by a new system. However, as chair of the national committee working on what updates will be included in new versions of ECF, I can tell you I am fighting hard to include a feature that will return at least a portion of the "unavailable" concept. I must hasten to add that since we are the only court in the country that had such a policy, it won't be easy (though I'm at least leading on points at this time). Further, even if successful, it is at least a year away. Keep your toes crossed!

FREE NEXT DAY FAX OR E-MAIL FROM NOTICING CENTER

If you haven't done so, you can sign up to get fax or e-mail versions of all notices from the Bankruptcy Noticing Center (BNC) shortly after midnight of the day we order them (i.e., instead of a paper version like this which took at least four days to reach you). I **STRONGLY URGE** you sign up since effective 11/10 **ALL** notices, orders, judgments, etc. will be sent out via the BNC. For further info visit www.EBNuscourts.com or call 1-877-837-3424. CALL OR VISIT NOOOOW!

ELECTRONIC CASE FILES

OK, it is time to talk the future. That future begins 11/10/03 and is called the Electronic Case File (ECF) system (sometimes know as CM/ECF). This is a totally new case management and electronic file system for federal courts that requires Internet access for use.

This goblin, however, requires a massive court effort, a major GO (that you **MUST READ CAREFULLY!**), those ghoulish LBF updates, some effort on your part, and probably other things about to give me nightmares. Is it scary for us? YES! Will it eventually be totally awesome and save both the court AND YOU time and money? YES!! Is it another thing that requires you to keep a constant vigil on www.orb.uscourt.gov ? YES!!!

Those of you who are already website groupies have seen preliminary info about how it works; Internet, hardware, and software requirements (e.g., Adobe to create, see and store documents in a PDF file - more on that some other time, but suffice it to say that is how we can all see what is filed without anyone tampering with the document and without having to scan paper); credit cards; other tips; and so on. True, I'm presuming (none of that "assuming" stuff for me) that you at least know what hardware, software and the Internet are. I am also confident that if you actually have such things, you also have virtually all you will need to play in the ECF world.

"So what's in it for me?" you ask (I know I would). At first, primarily 24/7 Internet access to case info and the viewing, downloading, etc. of documents filed on and after 11/10 (although we will soon try to link all the images of discharges and other miscellaneous notices we have been collecting over the past few years). This access is via WebPACER and, if you haven't already, you should immediately either sign up at pacer.psc.uscourts.gov or call 1-800-676-6856.

Once you have signed up and become a registered "Participant", however, you add really great perks like 24/7 filings; reduced paper, postage, courier, storage costs (e.g., one attorney using ECF elsewhere estimates \$20K savings in year one); instant e-mail re: case activity for any case you designate; and no waiting in lines or inability to access files when they are in the judge's chambers. When can you sign up? Not sure, but it will be sooner rather than later in 2004. After an electronic filing pilot with trustees and some attorneys, we will be spreading like locusts throughout attorney land so stay tuned (yes, to that website I keep bugging you about).

Any hints on what is in that GO? My, you are inquisitive, but glad you asked! You will find things found in other courts around the country like the need to generally file all matrices on diskettes; no more duplexing or two-hole punching, and other important formatting requirements; a need to file a separate motion, etc. before filing a stipulated order, judgment, etc.; a maximum of five pages of claim attachments; the requirement to file only excerpts of any exhibit referenced in a brief, memo, etc.; the need to use only "Mixed" case letters in case captions; elimination of the lead "3" or "6" in case numbers; those revised 341(a) rescheduling procedures; elimination of the need to file most, if not all, copies of petitions; etc. In other words, some tricks, but hopefully more treats.

REQUESTS FOR A HIATUS ON DOCUMENT FILING

Because of its importance, I am again pleading on behalf of all our clerk's office folks that you please file **ONLY EMERGENCY DOCUMENTS FROM Tuesday, 11/4/03 THROUGH Monday, 11/17/03**. Of course any additional hold out will also be gratefully appreciated. Thank you!

FINALLY

With all sincerity from not only my heart but the hearts of all of us here at the court, I thank you and your staffs so very much for all you do to make this one of the nation's premier bankruptcy courts! I know for a fact we could not come close without all your help. And, speaking of your staffs, **PLEASE SHARE THIS LETTER WITH THEM** so they not only have a glimpse into the future, but also know how much we appreciate them.

Got to go now. Have a happy and safe Halloween. See you on the Internet!

DATED: October 20, 2003

Terry (T. Dunn)