



AMERICAN
BANKRUPTCY
INSTITUTE

Alexander L. Paskay Memorial Bankruptcy Seminar

Consumer

Effective Motion Practice in Bankruptcy Court

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Effective Motion Practice

49th Annual Alexander L. Paskay Memorial Bankruptcy Seminar

February 27, 2025

Presented by:

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“The 3-3-3 Rule”

By Judge Michael G. Williamson

“Judge is the 3-3-3 Rule in effect for this case or is this a 10-10-10 case?” Those of you who have appeared in my courtroom may have heard this question asked, or you have probably heard me discuss these rules. But just in case, let me explain: Keep it Short! Few motions need to exceed three pages—thus **the first “3” in the Rule stands for 3 pages. That’s the length that works best for most routine motions.** Even if it is a really complex matter, try to keep the page count down to 10 pages (get it? 10-10-10). The more succinct your writing the better. Don't drag your motion out to the maximum page limit if you have nothing left to say. In the words of Chief Justice Roberts, "I've yet to put down a brief and say, ‘I wish that were longer.’”

The second “3” relates to the maximum number of cases that you should cite for any proposition of law. Simply put: Avoid Excessive Case Citations! If there is a novel legal issue, cite a case or two that supports your position. One or two cases are ordinarily sufficient. Avoid long string cites unless you are trying to make a point. And citation of well-settled law is not helpful. For example, taking two pages to review the standards for summary judgment is a waste of space. These comments apply equally to bigger cases in which the 10-10-10 Rule applies (I know--it should be the 10-3-10 Rule--but that doesn't sound very good so I'm exercising some artistic license on the name of the Rule).

The third “3” applies to the length of your argument on most routine matters. Believe it or not, we bankruptcy judges have probably seen the type of motion that you have filed before (like maybe a 1000 times). So if it's just a motion for relief from stay on a car with no insurance and no payments have been made for four months--we get it. That's all we need to know. Three minutes of oral argument should be more than sufficient. We don't need a primer on the constitutional underpinnings of adequate protection.

While I've got the floor, here are some other practice pointers on oral argument and drafting of motions and memoranda for the court (I know I'm breaking the 3-3-3 Rule by going on at this point, so I'll *sua sponte* invoke the 10-10-10 Rule).

Preview Relief Sought. Explain at the beginning of your argument and in the introductory paragraphs of the motion the relief you are seeking before you lay out the factual and legal bases for the relief requested. Let us know what you want at the front end so we know where you're heading and will understand the relevance of the facts you proffer in support.

Avoid Legalese. Plain language is easier to understand. As Justice Scalia once said, "A good test is, if you use the word at a cocktail party, will people look at you funny?"

Avoid Minutiae. When drafting your motion or making your argument, first ask yourself what the court needs to know, then include that information in the motion or argument. You need to communicate the big picture in a fashion that it can be understood quickly by the reader or listener. Avoid minutiae. For example, a tedious recitation in a motion of every document in the loan file is neither needed nor helpful. In a similar vein, do not cut and paste the identical case history and introductory paragraphs from earlier motions into later ones.

Never Disparage Your Opponent. As Justice Ginsburg once said, "You should aim to persuade the judge by the power of your reasoning and not by denigrating the opposing side." Using words such as "outrageous," "disingenuous," and the like reflects poorly on you. If the opposing counsel makes disparaging remarks about you or your client avoid responding in kind. Keep the high road!

Be Intellectually Honest. If you have weaknesses in your position, "pull the teeth" by addressing them in your motion or up front in your oral argument explaining that while you concede that these weaknesses exist, they should not compel a different result. Similarly, address your opponent's best argument in your motion.

Provide Copies of Cases. Many judges welcome the filing of cases that will be relied on at the hearing so long as the cases are furnished to opposing counsel. Depending on a judge's practice, it is often useful to highlight the

portions of the cases that you will be relying upon. Include those highlights in the cases you provide to opposing counsel.

File Your Memo of Law Well Before Hearing. When you do file briefs or cases, they are of very little use to the court unless they are filed in a timely manner so as to allow sufficient opportunity for their review in advance of the hearing (delivery to chambers at the end of business hours on the eve of a hearing or on the day of the hearing is not timely). You should assume that the judge will rule from the bench, and briefs or cases filed at or immediately before the hearing will not be reviewed prior to the court's making its ruling.

(You'll note that I covered exactly 10 points in compliance with my 10-10-10 Rule.) See you in court.

TEN THINGS I LIKE ABOUT YOU

Practice Tips from Judge Isicoff

ONE

I LIKE THAT YOU AND YOUR STAFF REVIEW LOCAL RULES AND MY PROCEDURES RATHER THAN CALL MY JA OR LAW CLERK TO FIND OUT THE PROPER WAY TO DO SOMETHING, OR TO FIND OUT WHAT I DO AND DO NOT EXPECT OR ALLOW WITH RESPECT TO CERTAIN MOTIONS OR HEARINGS.

All the judges have taken the time to write and post procedural preferences and guidelines on their individual webpages. Moreover, the judges and the clerk have spent a great deal of time putting together local rules and local forms with a detailed index to make it easy for you to find information. You need to make sure your staff are aware of these resources and use them.

TWO

I LIKE THAT, IF YOU ARE NOT OPPOSING A MOTION, YOU PICK UP THE PHONE OR SEND AN EMAIL, ADVISING OPPOSING COUNSEL THAT YOU ARE NOT OPPOSING, RATHER THAN JUST NOT SHOWING UP FOR A HEARING.

If you are not opposing a motion, or you are agreeing to relief, let the movant know so that the movant can come up at the beginning of motion calendar, OR even avoid coming to court. **Don't just NOT show up.** That will mean that you have caused opposing counsel unnecessary time and expense and second, that you have used up valuable court time on a motion that could have been resolved easily. Moreover, if you don't show up, I will assume you missed the hearing by accident or carelessness, and I will issue an order to show cause requiring you to respond, and, perhaps, show up and explain to me in person why you missed the hearing. **Not responding to opposing counsel is not acceptable and the second time it happens the attorney may be sanctioned.**

THREE

I LIKE THAT YOU REMEMBER TO REACH OUT TO OPPOSING COUNSEL BEFORE YOU FILE A MOTION IN ORDER TO SAVE TIME AND COST.

Local Rule 9073-1(D) states “**Conference With Opposing Attorneys Required.** If a motion seeks relief involving a debtor that is represented by an attorney, the trustee, or another particular adverse party that is represented by an attorney, the certificate of service for the notice of hearing shall include a certification that movant’s attorney has contacted counsel for all adverse parties to attempt to resolve the matter without hearing.” (NOTE: this is in addition to the meet and confer requirements of Fed. R. Bankr. P. 7037 relating to discovery disputes). If possible you must try to resolve matters without filing a motion. This will save you and your client time and money. It will also save court time.

FOUR

I LIKE THAT YOU DO NOT FILE AN EX PARTE MOTION TO CONTINUE A HEARING OR A DEADLINE WITHOUT GETTING AGREEMENT FROM THE OTHER SIDE, AND REPRESENTING IN THE MOTION THAT THE EXTENSION OR CONTINUANCE IS AGREED.

In the absence of a true emergency that does not allow time to confer with the other side (and long planned family vacations, or hearings or trials in other courts that have been previously set are NOT emergencies), I will not continue a matter *without a hearing*, unless 1) the basis for the continuance is set out in the motion; 2) it is not requested at the last minute; and 3) the motion reflects that you have conferred with the other side before filing a motion that is not agreed. If the matter IS agreed, please call the Courtroom Deputy to get the new hearing date and include that date in the proposed order (uploaded with the motion).

FIVE

I LIKE THAT THE MOTIONS AND ORDERS YOU SUBMIT HAVE BEEN REVIEWED FOR ACCURACY, TYPOS, GRAMMAR AND PUNCTUATION ERRORS, PERSONALLY IDENTIFIABLE INFORMATION AND COMPLETENESS.

Please read everything you submit. Please make sure all of your **motions** have the required exhibits, the proper titles, the proper party names, are in English (as opposed to incomplete sentences that sound like gibberish), and otherwise look professional. If the motions are ex-parte motions, please make sure that you submit orders with the motions and that the orders match the motions.

Please make sure you upload **orders** that include any exhibits that are referred to in the order, and also contain full sentences, make sense, match the relief requested in the motion, and otherwise look professional. If the order stems from an ex-parte motion make sure the word “Proposed” or “Exhibit __” has been taken off the order you want me to sign. If there is a form order – USE IT (but modify it if necessary). If the form of the order is disputed it must be sent to chamber’s box with all parties copied on the transmission.

SIX

I LIKE IT WHEN YOU MAKE SURE THAT YOU PROPERLY SERVE ANY MOTION OR COMPLAINT THAT YOU FILE (COMPLYING WITH RULE 7004 SERVICE WHEN NECESSARY, SERVING OBJECTIONS TO CLAIM IN ACCORDANCE WITH THE ADDRESS INDICATED ON THE PROOF OF CLAIM OR AS OTHERWISE REQUIRED BY THE RULES OF BANKRUPTCY PROCEDURE, AND SERVING ALL THE PARTIES REQUIRED BY RULE 2002 TO BE SERVED WITH A PARTICULAR PLEADING). I ALSO LIKE IT WHEN YOU TIMELY FILE A CERTIFICATE OF SERVICE THAT SHOWS THAT THE PLEADING AND NOTICE OF HEARING, IF APPLICABLE, WERE PROPERLY SERVED.

Service of motions is governed primarily by Bankruptcy Rules 2002 and 7004. Make sure you serve everyone who needs to be served in the manner that they are required to be served in the timeframe they are required to be served. If you don’t have enough time, then file a motion seeking to shorten the required

time periods. Our Local Rules require that you serve any order or notice of hearing within two days after receiving the order or notice of hearing from the court on all parties who did not receive pleadings electronically through CM/ECF, and that you immediately file a certificate of service reflecting who you served and how you served them.

SEVEN

I LIKE THAT YOU AND YOUR STAFF TAKE THE TIME TO READ THE EMAIL FROM CM/ECF (WHICH IS ACTUALLY SENT BY CHAMBER'S STAFF) EXPLAINING WHY AN ORDER HAS BEEN RETURNED TO YOU.

There is absolutely no reason whatsoever to call my JA or law clerk and ask WHY an order was returned. Every order returned includes an email WHY the order was returned. READ IT. This is one of the many reasons why it is important that your email is correct on any order you submit.

(You should always remember to keep current in the court's case management system (CM/ECF), your primary and secondary email addresses. Additionally, if you are changing your U.S. Mail address you must also file a Notice of Change of Address in each case or proceeding in which the change is to be effected [See Local Rule 2002-1(G)(1)]. We had one lawyer who failed to provide a notice of change of address and he had to respond to an order of contempt for failing to appear at several hearings that he didn't know about because he forgot to update his information with the clerk.)

EIGHT

I LIKE THAT YOU MAKE SURE YOUR CLIENTS KNOW WELL IN ADVANCE WHEN THEY DO OR DO NOT NEED TO SHOW UP FOR SOMETHING AND WHEN A MATTER HAS BEEN RESOLVED.

Something special about our bar is that so many disputes can be resolved amicably. However, many times clients show up for a hearing (a) which hearing the debtor did not need to attend even if there was no agreement or (b) that has been resolved by agreement ahead of time but without the client knowing the hearing has been canceled. Your client's time is as valuable as your time. Please make sure your client always understands when he or she needs to show up and

if you do resolve something in advance of a hearing let your client know so he or she doesn't have to come to court, or log into a hearing, for nothing.

NINE

I LIKE THAT YOU PROPERLY PREPARE FOR EVIDENTIARY HEARINGS. TIMELY UPLOAD YOUR EXHIBITS, AND BRING THE APPROPRIATE EXHIBITS, PROPERLY TABBED AND MARKED WITH THE CORRECT FORM OF EXHIBIT REGISTER, AND THAT YOU BRING ENOUGH COPIES, AND THAT YOUR WITNESSES KNOW WAY IN ADVANCE THEY NEED TO BE AT A HEARING.

Our local rules set out the Court's requirements for filing exhibits in advance on CM/ECF. Also, every adversary proceeding and evidentiary hearing has a procedures order that sets forth what the parties must do prior to the scheduled trial or hearing and what must be brought to the trial or hearing. **Calendar these deadlines as soon as you get the order**, and make sure your client, witnesses, and appraisers, know the hearing or trial date as soon as you do. In this way, if a necessary witness or your client will be unavailable on a scheduled trial or hearing date, you will know well in advance and can file a motion to reschedule, giving opposing counsel, and the court, plenty of time to adjust their schedules as well. And whatever you do, DON'T show up for a trial or evidentiary hearing unprepared.

TEN

I LIKE THE FACT THAT YOU ALWAYS REMEMBER THAT LAW IS A PROFESSION, NOT A JOB. EVERYTHING I LIKE ABOUT YOU REFLECTS YOUR RECOGNITION OF THAT IMPORTANT DISTINCTION.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

Style Guide

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I. SHORT GUIDE TO BLUEBOOK (19TH EDITION)

A. Citations in Court Documents

1. Cases (Bluebook (“BB”) Rules B4, 10, and 18.3.1, with modifications)

Examples:

Thompkins v. Lil’ Joe Records, Inc., 476 F.3d 1294, 1315 (11th Cir. 2007).

In re Trusted Media Holdings, L.L.C., No. 07-13429, 2008 WL 1816396, *7 (11th Cir. Apr. 23, 2008).

Bradley Factor, Inc. v. United States, 86 F. Supp. 2d 1140, 1146 (M.D. Fla. 2000).

SHORT FORM: *Bradley Factor*, 86 F. Supp. 2d at 1144.

Biscayne Boulevard Props., Inc. v. Graham, 65 So. 2d 858, 859 (Fla. 1953).

Woodard v. Dicks, 306 B.R. 700, 705-06 (Bankr. M.D. Fla. 2004) (Williamson, J.).

ALTERNATIVE SHORT FORM: 306 B.R. at 707.

Modification: To follow common usage among federal courts, parallel cite United States Supreme Court cases as follows, only giving pin cites for the “U.S.” and “S. Ct.” reporters:

Field v. Mans, 516 U.S. 59, 67, 116 S. Ct. 437, 442, 133 L. Ed. 2d 351 (1995).

SHORT FORM: *Field*, 516 U.S. at 67, 116 S. Ct. at 442.

Modification: To follow common usage in Florida’s federal and state courts, cite to Florida district courts of appeal cases in the following format:

Nobles v. Citizens Mortgage Corp., 479 So. 2d 822, 822 (Fla. 2d DCA 1985).

2. Bankruptcy Cases (BB Rule 10.2.1(a))

a. If the opinion was issued in the context of the main bankruptcy case, cite the case name as the last name of the debtor prefaced by “*In re.*” Phrases such as “in the matter of” or “petition of”

are always abbreviated as “*In re*.” Example: *In re Williams*, 339 B.R. 794 (Bankr. M.D. Fla. 2006) (McEwen, J.); *In re Schwalm*, 380 B.R. 630 (Bankr. M.D. Fla. 2008) (May, J.).

b. If the opinion was issued in the context of an adversary proceeding, list the adversary names on either side of a “v.” Phrases such as “on the relation of” or “on behalf of” are abbreviated “ex rel.” Example: *U.S. ex rel. Clausen v. Lab Corp of Am., Inc.*, 290 F.3d 1301 (11th Cir. 2002). When the opinion lists only the adversary parties, omit all procedural phrases except “ex rel.” Example: *Menchise v. Akerman Senterfitt*, 532 F.3d 1146 (11th Cir. 2008).

c. If both the adversary parties’ names and the non-adversary case name are listed at the beginning of an opinion, list both in the citation. Example: *Jensen v. Landolphi (In re Landolphi)*, 377 B.R. 409 (Bankr. M.D. Fla. 2008) (Paskay, J.).

3. Statutes (BB Rules B5 and 12)

28 U.S.C. § 157(b) (2008).
11 U.S.C. §§ 544-548 (2008).
Fla. Stat. § 95.11(3) (2007).

4. Federal and Local Rules (BB Rules B5.1.3 and 12.9.3, Local Rule 1001-1(e))

Fed. R. Bankr. P. 6003.
Fed. R. Civ. P. 8.
Fed. R. Evid. 410.
S.D. Fla. R. 87.2.
Bankr. M.D. Fla. R. 1001-1(e) should be cited as Local Rule 1001-1(e).

5. Books, Treatises, and Reference Materials (Non-Periodical) (BB Rules B8 and 15)

10 *Collier on Bankruptcy* ¶ 6003.02[2] (15th ed. 2008).
Black’s Law Dictionary 712 (9th ed. 2009).
The Bluebook: A Uniform System of Citation (Columbia Law Review Ass’n et al. eds., 19th ed. 2010).

6. Articles in Periodicals (BB Rules B9 and 16)

Michael Barbado, *Retailing Chains Caught in a Wave of Bankruptcies*, N.Y. Times, Apr. 15, 2008, at A1.
Eugene R. Wedoff, *Means Testing in the New 707(b)*, 79 Am. Bankr. L.J. 231, 243 (2005).

7. Court/Litigation Documents (BB Rule B7, Table BT.1)

Citations to court documents are enclosed in parentheses. The ending period of a citation sentence goes inside the parentheses, but a citation clause within a sentence has no final period and also should not be set off with commas.

Examples: (Doc. No. 74; Pl.’s Ex. 13.) (Trial Tr. vol. 2, 21:12-23:4, Oct. 3, 2008.)

Examples in Text: The Debtor’s schedules (Doc. No. 1) reveal improperly exempted assets that were the subject of the Trustee’s objection (Doc. No. 15). The Court sustained the objection to the Debtor’s claim of exemption in its order of July 9. (Doc. No. 20.)

8. Legislative Materials (BB Rule 13)

H.R. 3150, 105th Cong. (1998).

H.R. Rep. No. 109-31 (2005), *reprinted in* 2005 U.S.C.C.A.N. 88.

9. Constitutions (BB Rule B6, 11)

U.S. Const. art. 4, § 1.

Fla. Const. art. X, § 4.

10. Short Form Citation and “Id.” (BB Rules B4.2, 4.1)

a. The first time any authority is cited, it must be cited in full. After the first citation, if the reference is clear, a “short form” should be used. The following are all proper short forms of *In re Fundamental Long Term Care, Inc.*, 501 B.R. 770, 775 (Bankr. M.D. Fla. 2013):

In re Fundamental, 501 B.R. at 775.

501 B.R. at 775.

Id. at 775.

b. The short form “*id.*” is used to refer to the immediately preceding authority, and may *only* be used when the preceding citation contains only *one* source. If no page number is given, “*id.*” refers to the page cited in the immediately preceding authority. “*Id.*” can be used as a short cite for all types of authorities.

11. Introductory Signals (BB Rules 1.2, B3)

Citation sentences should often begin with an introductory signal to indicate the type of support provided by the authority. Examples:

See: signals that the cited authority clearly supports, but does not directly state, the proposition

Contra: signals that the cited authority directly contradicts a given point

But see: signals that the cited authority contradicts the stated proposition implicitly or contains dicta that contradicts the stated proposition

No signal should be used if the authority directly states the proposition, is the source of a quotation, or is referred to in the text.

12. Bluebook Tables: Abbreviations in Citations

<i>Category</i>	<i>Table</i>	<i>Related Bluebook Rule</i>
Case Reporters	BB T.1	Federal, p. 215; Florida, p. 237; BB Rule B4.1.2
Case Names	BB T.6	BB Rules B4.1.1, B4.1.1(vi) & 10.2; <i>c.f.</i> 10.2.1(h)
Court Names	BB T.7	Use in case cites, BB Rule 10.4
Geographic Terms	BB T.10	Use in case cites, BB Rules B4.1.1, 10.2.2 & 10.4
Months	BB T.12	Use in case cites, BB Rule 10.5
Periodicals	BB T.13	Use when citing law reviews, BB Rule 16
Subdivisions	BB T.16	Use in all citations, BB Rule 3

13. Spacing and Abbreviations (BB Rules 6.1, B4.1.3)

- a. Generally, there are no spaces between unilateral capitals, which are single letter or numerical abbreviations, such as “2d” or “S.” Abbreviations longer than a single letter, such as “Supp.” or “Fla.,” must always be set off by spaces from other abbreviations.
- b. Abbreviations should be followed by a period unless the last letter of the abbreviation is set off by an apostrophe. Examples: Ass’n and Gov’t, but, Ctr. and Dev.
- c. United States may, but need not, be abbreviated as “U.S.” only when used as an adjective. Example: U.S. Trustee or United States Trustee, but, “representing the United States.”

B. Text in Court Documents1. Capitalization (BB Rules B7.3 and 8)

- a. The word “court” should be capitalized when naming any court in full or when referring to the U.S. Supreme Court. For instance, the “Eleventh Circuit Court of Appeals” would be capitalized, but not “the courts of appeals.” Likewise, the “U.S. Trustee” is always capitalized.
- b. The word “court” is also capitalized in a court document when it is referring to the court issuing or receiving that document. For instance, “the Court has considered the evidence in this case,” but, “bankruptcy courts disagree on this issue.”
- c. Likewise, capitalize “plaintiff,” “defendant,” “debtor,” “trustee” or “creditor” when referring to the party in the case that is the subject of the order. For example, “The U.S. Trustee has objected to the Debtor’s claim of exemptions,” but, “The trustee in *Shoopman* objected, although the debtors had chosen to surrender their homes.”
- d. The title of court documents should be capitalized only if 1) the document was filed in the same matter as is the subject of your document and 2) the actual title or a shortened form is used. Do not capitalize generic document names. For instance, “In the Debtor’s Objection to Claim Number 5,” but, “this Court’s orders are ignored to your peril.”

2. Citations v. References in Text (BB Rules 1.1, 10.2.1, B2)

a. Types of Cites: A citation may be either a sentence or a clause. A citation sentence occurs on its own after a textual sentence and is followed by a period. A citation clause occurs within a textual sentence and is set off with commas. A statute or case name may also be incorporated into a textual sentence, in which case it is not a citation at all.

Citation Clause: “The court in *Dicks*, 306 B.R. at 722, held that”

b. Abbreviation: In a case name in a citation clause, only abbreviate widely known acronyms, as well as “&,” “Ass’n,” “Bros.,” “Co.,” “Corp.,” “Inc.,” “Ltd.,” and “No.” Fully abbreviate case names in citation sentences by also abbreviating pursuant to BB T.6 and T.10.

c. Non-Citations: If a statute or a case name is being referred to in text, it is not a citation, so abbreviate nothing, and turn most symbols into words. Abbreviations should generally not be used at all in text.

Citation Sentence: “The exemption does not apply. Fla. Stat. § 222.25.”

Statute Referenced in Text: “This Debtor cannot benefit from the exemption provided under section 222.25 of the Florida Statutes.”

3. Numbers (BB Rule 6.2, with modifications)

a. **General Rule:** Spell out numbers zero to ten in text. For numbers larger than ten, use numerals.

Exception: Spell out 1) any number that begins a sentence and 2) round numbers (hundred, thousand, million), if done consistently.

Exception: Use numerals 1) when referring to a section or subdivision, such as a code section, 2) if referring repeatedly to percentages or dollar amounts, 3) if the number includes a decimal point, and 4) for numbers in a series if any one number is over ten.

b. Use commas to set off sets of three digits in large numbers. For example: 34,567 and 1,478.

c. Never use superscript for ordinal numbers (numbers that indicate position in a series). In text, use “2nd” and “3rd.” In citations only, use “2d” and “3d.”

4. Symbols (BB Rules 6.2 & 12.10)

a. The section (§) and paragraph (§) symbols are used in citations. In text, however, the words must be spelled out unless referring to a section in the United States Code. There should always be a space between the “§” and “§” symbols and a numeral. Example: 11 U.S.C. § 707(b)(2); 10 *Collier on Bankruptcy* ¶ 6003.02[2] (15th ed. 2008).

b. The dollar (\$) and percent (%) symbols should be used whenever numerals are used, and spelled out whenever numbers are spelled out, and should never begin a sentence. There should never be a space between the “\$” or “%” symbols and a numeral. Example: \$500,000 and 11%.

5. Proper Usage of Legal Terms

- a. Motions are either “granted” or “denied.” Applications are either “approved” or “disapproved.” Objections are either “sustained” or “overruled.” Claims are either “allowed” or “disallowed.”
- b. The main bankruptcy case is a “case.” In a case you have “final evidentiary hearings” on “contested matters.” An adversary proceeding is a “proceeding.” In an adversary proceeding, you have “trials.” Final evidentiary hearings may also be referred to as “trials.”
- c. When giving a deadline, using “through” and not “to” a specific date will avoid the possibly unintended consequence of shortening the period by one day.
- d. For clarity, the use of defined terms is recommended.

Example: THIS CASE came on for hearing on May 1, 2008, on the United States Trustee’s Emergency Motion to Appoint a Chapter 11 Trustee (“Motion”). After reviewing the case law and hearing the arguments of the Debtor and the United States Trustee, the Court concludes that the Motion should be denied without prejudice.

II. FORMAT OF ORDERS (Local Rule 9072-1)

A. Whole Document

1. Times New Roman, 12-point font
2. 8 ½ by 11 inch paper
3. Three-inch top margin on page one, all other margins are to be one inch
4. Page numbers centered in the footer on every page except the first

B. Caption

1. The caption of all orders entered in the main bankruptcy case should match the following format, beginning at the first line on the page:

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

DIVISION
www.flmb.uscourts.gov

In re: Case No. 8:08-bk-12345-KRM
Chapter 13

John Doe and Jane Doe,

Debtors.

_____ /

2. The caption of an order entered in an adversary proceeding should match the following format:

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

DIVISION
www.flmb.uscourts.gov

In re: Case No. 8:08-bk-12345-KRM
Chapter 11

Unfortunate Company, L.L.C.,

Debtor.

_____ /

Unfortunate Company, L.L.C., Adv. No. 8:08-ap-12345

Plaintiff,

v.

Liability, Ltd.,

Defendant.

C. The Case/Proceeding Number

1. The case number should conform to the following: Case No. 8:08-bk-00000-MGW
2. An adversary proceeding number: Adv. No. 8:08-ap-00000
3. A miscellaneous proceeding number: Misc. No. 8:08-mp-00000-MGW
4. The first digit signifies the division in which the case was filed:

2 = Fort Myers	3 = Jacksonville	6 = Orlando	8 = Tampa
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5. The next two digits signify the year the case or proceeding was filed
6. The next two lowercase letters signify the type of proceeding or case:

bk = bankruptcy case	ap = adversary proceeding	mp = miscellaneous proceeding
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7. The next five digits are the chronologically assigned case or proceeding number
8. The final three uppercase letters signify the judge to whom the case is assigned:

JAB = Judge Brown	RCT = Judge Colton	CED = Chief Judge Delano – Tampa
BAJ = Judge Burgess	FMD = Chief Judge Delano – Fort Myers	JAF = Judge Funk
TPG = Judge Geyer	CPM = Judge McEwen	GER = Judge Robson
LVV = Judge Vaughan		

D. Title of Order

1. The title follows the caption after one hard return, is centered, in all caps, and bold.
2. If the heading runs onto several lines, no line should be longer than the line below it. Only the text of the bottom line of the heading should be underlined.
3. The title of the order should be a full, descriptive title detailing the nature of the motion or application ruled upon.

E. Body

1. The body of the order should be double-spaced, left-justified, and laid out in unnumbered paragraphs, each beginning with a single indent.
2. The first sentence of the order should begin with “THIS CASE” or “THIS PROCEEDING” in all caps. The sentence should recite the papers and events that resulted in the entry of the order. Orders entered “after a hearing” should include the hearing date. Papers should be identified by title, party and docket number.
3. If the order involves real property, it must contain a full and complete legal description of the real property.

F. Decretal Paragraphs

1. Before the Court's decree should be the phrase "Accordingly, it is **ORDERED**" and "**ORDERED**" should be in all caps and bolded.
2. The decree generally is presented in either multiple numbered paragraphs or in a single unnumbered paragraph. For short orders in which there are four or fewer decretal paragraphs, the decree may be set out in multiple unnumbered paragraphs, all but the first beginning with "**IT IS FURTHER ORDERED**" in all caps and bolded.
3. Date and signature lines are not to be included.

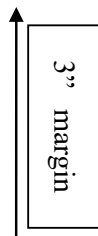
G. Service

Proposed orders shall include one of the following statements located two hard returns after the last paragraph of the order:

When an attorney is to serve the order: "Attorney [Name of submitting attorney] is directed to serve a copy of this order on interested parties who do not receive service by CM/ECF and file a proof of service within three days of entry of the order."

When a trustee is to serve the order: "Trustee [Name of submitting trustee] is directed to serve a copy of this order on interested parties who are non-CM/ECF users and file a proof of service within 3 days of entry of the order."

- H.** With the exception of consent orders, proposed orders should be saved to a PDF format directly from a word processing program such as Word or Word Perfect rather than scanning a printed copy of the document.



UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
DIVISION
www.flmb.uscourts.gov

In re:

Case No. 8:08-bk-12345-CPM
Chapter 13

John Doe and Jane Doe,

Debtor.*

**HEADING CENTERED IN ALL CAPS AND BOLDED
BUT ONLY THE TEXT OF THE BOTTOM LINE IS UNDERLINED**

THIS CASE came on for consideration without a hearing on the Court's own Motion for Uniformity in the Format of Orders (Doc. No. 1). Paragraphs in the body of this Order begin with a single tab indent and are unnumbered, double-spaced and left-justified. This Order is written in 12-point Times New Roman font. The page is 8 ½ by 11 inches in size with one-inch margins. There is one space between each sentence and one space between each word in a sentence. Accordingly, it is

ORDERED that the decree of the Court may be presented in a single unnumbered paragraph.

Attorney John Doe is directed to serve a copy of this order on interested parties who are non-CM/ECF users and file a proof of service within 3 days of entry of the order.

*All references to "Debtor" shall include and refer to both of the debtors in a case filed jointly by two individuals.

[Note: The foregoing footer shall be placed in form orders generated by the Court. It may also be placed in proposed orders submitted by counsel, but only when appropriate.]



UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

DIVISION
www.flmb.uscourts.gov

In re: Case No. 8:08-bk-12345-CED
Unfortunate Company, L.L.C., Chapter 11
Debtor.

_____ /

Unfortunate Company, L.L.C., Adv. No. 8:08-ap-00678
Plaintiff,

v.

Liability, Ltd.,
Defendant.

_____ /

**HEADING CENTERED IN
ALL CAPS AND BOLDED BUT ONLY THE
TEXT OF THE BOTTOM LINE IS UNDERLINED**

THIS PROCEEDING came on for hearing on April 1, 2008, on the Court's own Motion for Uniformity in the Format of Orders (Doc. No. 1). Paragraphs in the body of this Order are unnumbered, double-spaced, and left-justified. The first line of each paragraph has a single tab indent; the margins are set to one inch. The paper is 8 ½ by 11 inches. The font is 12-point Times New Roman. Page numbers are centered in the footer on every page but the first. There is one space between each sentence and one space between each word in a sentence.

Accordingly, it is

ORDERED:

1. The decree of the Court may be presented in numbered paragraphs as long as there are two or more numbered paragraphs.
2. The date and signature may never stand alone on their own page.

Trustee Jane Doe is directed to serve a copy of this order on interested parties who are non-CM/ECF users and file a proof of service within 3 days of entry of the order.

*All references to “Plaintiff” or “Defendant” shall include and refer to multiple plaintiffs or defendants.

[Note: The foregoing footer shall be placed in form orders generated by the Court. It may also be placed in proposed orders submitted by counsel, but only when appropriate.]

Effective Motion Practice

ABI Alexander L. Paskay Memorial Bankruptcy Seminar
February 27, 2025

1



Nicole Mariani Noel
Kass Shuler Law Firm



Jonathan Semach
Ford & Semach, P.A.



Ryan Reinert
Shutts & Bowen



Moderator:
Caryl E. Delano
Chief U.S. Bankruptcy Judge



Teresa Hair
Brock & Scott

2

2

Do Know Your Audience



Your audience is a:

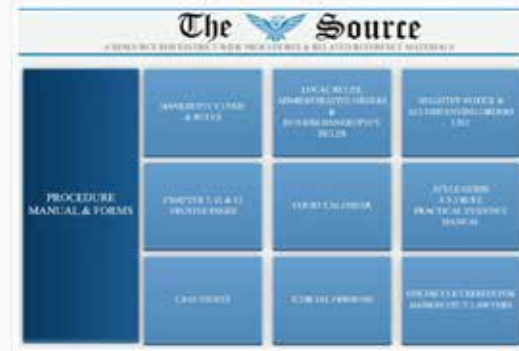
- Busy judge;
- Who likely knows the law; and
- Who wants “just the facts, ma’am.”

3

3

Do Consult *The Source*

- It includes sample motions & orders.
- It is updated constantly.



4

4

Do Follow the 3-3-3 Rule

“I’ve yet to put down a brief and say, ‘I wish that were longer.’” – Chief Justice John Roberts



5

3-3-3 Rule Explained

- Routine motions should be no more than **3** pages.
- Do not cite more than **3** cases.
- Limit your argument to **3** minutes.

6

Do Use Plain English

Plain English
techniques
include

- Eliminating unnecessary passive voice
- Using strong, precise verbs
- Keeping subjects and verbs close to each other
- Avoiding nominalizations (i.e., “argue” instead of “make the argument”)
- Shortening multiword phrases (i.e., “in the event that” becomes “if”)
- Varying sentence length and structure
- Targeting an average sentence length of 15 to 20 words

7

7

Don't

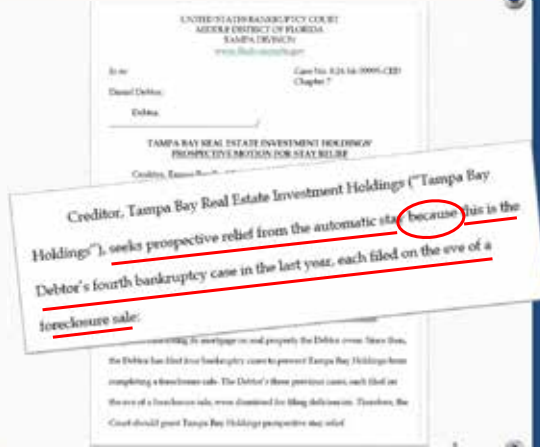
Waste valuable space
on information that
does not help your
audience (i.e., the
busy judge)



8

Do

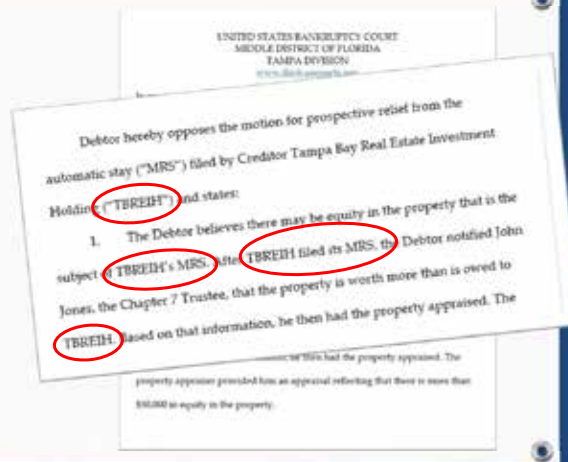
Provide a summary of the relief requested and the basis for the relief in your introductory paragraph.



9

Don't

Use complicated acronyms!



10

Don't Use Pronouns

Be careful!
Using pronouns can create confusion.

11

Don't Bury arguments in footnotes.

12

Do Use Footnotes

- For citations.
- It de-clutters argument.

1. Historically, courts have determined that a stay violation is willful if the party who violated the stay (1) knew the automatic stay was involved, and (2) intended the actions that violated the stay.¹ However, in *Taggart v. Lemmon*, which involved a discharge injunction violation, the Supreme Court concluded that a creditor may be held in civil contempt only when "there is not a 'fair ground of doubt' as to whether the creditor's conduct might be lawful under the discharge order."² Since *Taggart*, numerous "courts have assumed without deciding that 'willfulness' under § 362(d)(1) changed to include *Taggart*'s 'fair ground of doubt' standard."³ This Court should also apply *Taggart*'s "fair ground of doubt" standard.

¹ *In re Lymberry*, 615 B.R. 924, 929 (Bankr. S.D. Fla. 2020) (citing *Am. Eng'g v. BCS (In re Eng'g)*, 2011 WL 11559, 11555 (11th Cir. 1998)), see also *In re Sanders*, 2020 WL 6032041, at *3 (Bankr. M.D. Fla. Sept. 13, 2020) ("It is almost universally held that '[a] violation of the automatic stay is willful if the party knew the automatic stay was in effect and intended the actions which violated the stay.'") (quoting *In re Lymberry*, 615 B.R. at 929).

² 587 U.S. 524, 565 (2019).

³ *In re Alford*, 2021 WL 3183052, at *4 (Bankr. M.D. Fla. June 28, 2021) (citing *Sab v. Anderson (In re Alford)*, 2020 WL 1275723, at *4 & n.3 (B.A.P. 9th Cir. Mar. 16, 2020)).

23

13

Do Use Charts

Charts are an effective way to summarize important information.

2. Including this case, the Debtor has filed four bankruptcy cases – each on the eve of a foreclosure sale – since January 31, 2024:

Filing #	Date of Foreclosure Sale	Date of Bankruptcy Filing	Case No.	Date of Dismissal	Reason for Dismissal
1	2/2/2024	1/31/2024	24-bk-00001	2/28/2024	Filing Deficiencies
2	5/27/2024	5/24/2024	24-bk-11131	6/24/2024	Filing Deficiencies
3	10/10/2024	10/8/2024	24-bk-77777	11/1/2024	Filing Deficiencies
4	1/3/2025	12/31/2024	24-bk-99999	N/A	N/A

3. The Debtor filed its second voluntary Chapter 12 petition on May 14, 2024 before the Court under Case No. 24-bk-44121-CED (the "Second Bankruptcy Case"). On April

14

14

Don't Rely on Block Quotes

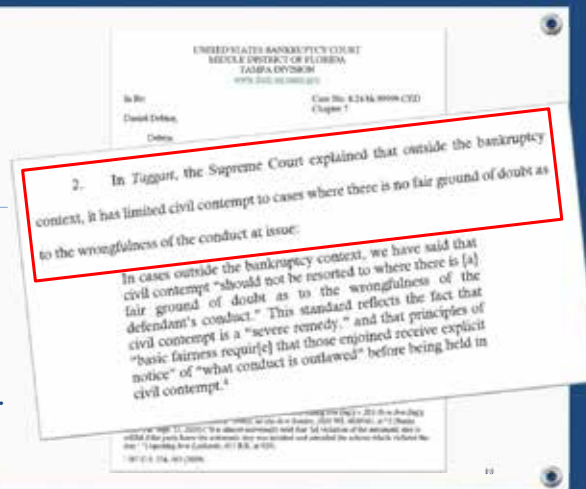
- Readers skip block quotes.
- Block quotes should not be used to make the point.



15

Do

- Introduce block quotes.
- The block quote provides support.



16

Introducing Block Quotes?

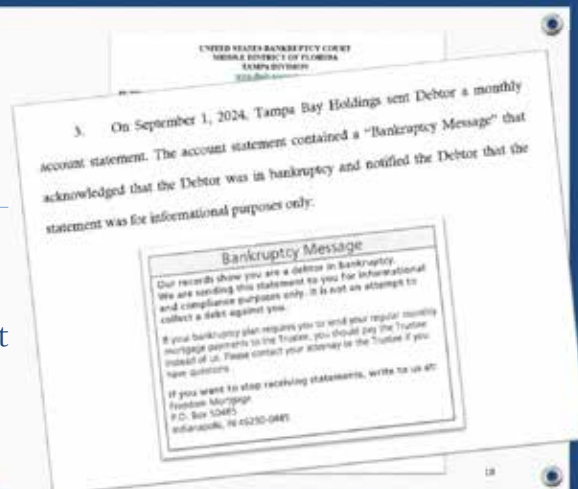
- Makes it more likely the reader will read the block quote.
- If the reader does skip over the block quote, you will still have made your point.
- If the block quote supports the lead-in, it increases your credibility.

17

17

Do Use Excerpts

Excerpts allow the Judge to easily identify the relevant information.



18

18

29

Don't Disparage

- Judges don't like incivility.
- It's not persuasive.
- You may be wrong!

[1] There are good reasons not to call an opponent's argument "ridiculous,"

Bennett's principal argument here. The reasons include civility: the near-certainty that overstatement will only push the reader away (especially when, as here, the hyperbole begins on page one of the brief); and that, even where the record supports an extreme modifier, "the better practice is usually to lay out the facts and let the court reach its own conclusions." *Big Dip-*

F.3d 715, 719 (6th Cir.2011). But here the biggest reason is more simple: the argument that State Farm derides as ridiculous is instead correct.

19

19

Do Timely Submit Orders

Check the Style
Guide & the
Procedure Manual



20

20

Do Use Proper Terminology in Orders

Filing	Win	Lose
Motion	Granted	Denied
Application	Approved	Disapproved
Objection	Sustained	Overruled

21

21

Ten Things I Like About You

Practice Tips from
Judge Laurel M.
Isicoff

TEN THINGS I LIKE ABOUT YOU
Practice Tips from Judge Isicoff

22

22

31

Judge Isicoff Likes That You

- 1) Review Local Rules and Procedures.
- 2) Advise opposing counsel when you don't oppose a motion.
- 3) Confer with opposing counsel when filing motions.
- 4) Don't file ex parte motions to continue without agreement.
- 5) Proofread orders.

23

23

Judge Isicoff Likes That You Also

- 6) Properly serve filings and provide proof of service.
- 7) Read e-mails explaining why orders have been rejected.
- 8) Make sure your clients know when they need to appear.
- 9) Properly prepare for evidentiary hearings.
- 10) Remember the law is a profession—not a job.

24

24

Materials

- Judge Williamson's *3-3-3 Rule*
- Judge Isicoff's *Ten Things I Like About You*
- The Middle District's *Style Guide*

25

25

33

Faculty

Hon. Caryl E. Delano is Chief Judge for the U.S. Bankruptcy Court for the Middle District of Florida in Tampa, initially appointed on June 25, 2008, and named Chief Judge on October 1, 2019. She also was appointed Presiding Judge of the Fort Myers Division in July 2012. In 2022, Judge Delano was appointed by the Eleventh Circuit to a second 14-year term as a bankruptcy judge. In 2022, she was appointed to the Bankruptcy Judges Advisory Committee to the Administrative Office of the U.S. Courts for a three-year term beginning in 2023. On July 6, 2023, the district court reappointed her as Chief Judge for another four-year term beginning on Oct. 1, 2023. Previously, Judge Delano practiced before the bankruptcy courts of the Central District of California for 14 years. In 1994, she returned to Tampa and most recently practiced law with the firm of Addison & Delano, P.A., where she concentrated her practice on bankruptcy and commercial litigation. Judge Delano has represented debtors and creditors in numerous chapter 11 cases and related adversary proceedings. She served as the liaison judge to the Middle District of Florida's Local Rules Lawyers' Advisory Committee from 2011-20 and is a member of the National Conference of Bankruptcy Judges Federal Rules Advisory Committee. In 2017, Judge Delano received the Southwest Florida Bankruptcy Professionals Association's Alexander L. Paskay Professionalism Award. In addition, she is a former executive director and past-president of the J. Clifford Cheatwood American Inn of Court. Judge Delano received her B.A. in English *cum laude* in 1976 from the University of South Florida and her J.D. in 1979 from Indiana University School of Law, having completed her final year of law school at Emory University School of Law.

Teresa Hair is an associate in the Tampa, Fla., office of Brock and Scott, PLLC. She is licensed to practice in Florida and is admitted to practice in the U.S. District Courts for the Northern, Middle and Southern Districts of Florida. Ms. Hair has focused her practice on bankruptcy and creditors' rights since 2009. She co-authored The Florida Bar's *Mortgage Foreclosure and Alternatives, 8th Edition* (2014). Ms. Hair received her Bachelor's degree in political science and criminology from the University of Florida in 2004 and her J.D. from Capital University School of Law in 2007.

Nicole Mariani Noel is a shareholder at Kass Shuler, P.A. in Tampa, Fla., where she has been practicing in the fields of bankruptcy, creditors' rights and insolvency, real estate, consumer and business litigation since 2009. She heads the Bankruptcy practice group for the firm and handles cases throughout the state of Florida in all districts, as well as District of Colorado, Eastern and Southern District of Texas, all three Districts in Tennessee, and the Northern and Southern Districts of Illinois. Ms. Noel is the president of the Tampa Bay Bankruptcy Bar Association (TBBBA) for the 2024-25 bar year. She formerly chaired the Bankruptcy Practice Group for the American Legal and Financial Network (ALFN) and the Case Law Update Subcommittee for the Real Property Finance and Lending Committee of the Real Property Probate and Trust Law Section of the Florida Bar. She also recently authored a chapter on bankruptcy in *Florida Foreclosure Law*, published by Fastcase. Ms. Noel is active in the community and is an adjunct professor at Stetson University College of Law, St. Petersburg College and Hillsborough Community College, teaching bankruptcy, real property finance, business law and civil litigation. She participated in the 2016 NextGeneration program, held during the National Conference of Bankruptcy Judges (NCBJ), and she was honored to become a Fellow for the Florida Bar Leadership Academy. In addition, she has been named one of ALFN's Junior Professionals and Executives Group (JPEG)'s standout young

professionals to watch in 2016 and most recently received the 2023 Industry Achievement Award for the ALFN. Ms. Noel received her undergraduate degree from Florida State University and her M.B.A. and J.D. from Stetson University School of Business Administration and Stetson University College of Law, respectively.

Ryan C. Reinert is a partner in Shutts & Bowen, LLP's Tampa, Fla., office, where he is a member of its Creditors' Rights/Bankruptcy Practice Group. He is Board Certified in Business Bankruptcy Law by the American Board of Certification, representing lenders, trustees and creditor committees in chapter 11 bankruptcy cases. Mr. Reinert has represented commercial and individual lenders in federal and state courts, including traditional, pooled, joint venture and CMBS loans. He also has represented asset-purchasers, landlords, trade creditors and contractors in business bankruptcy and liquidation cases. Mr. Reinert currently serves as a member of the board of directors of the Tampa Bay Bankruptcy Bar Association. His past experience includes the representation of the largest secured creditor in many reorganization cases, landlords in mega retail bankruptcy cases negotiating the assumption, assignment and rejection of leases, and creditors in Ponzi scheme cases.

Jonathan A. Semach is an attorney with the Law Offices of Buddy D. Ford, P.A. in Tampa, Fla., where he focuses on debtor representation. He has represented more than 100 chapter 11 debtors as either first or second chair. His clients have ranged from small mom-and-pop businesses to large multistate corporations with annual gross revenues in excess of \$20 million. Mr. Semach was admitted to the Florida Bar in 2008 and was selected as a *Super Lawyers* Rising Star in 2017 and 2018. Mr. Semach specializes in business and consumer bankruptcy, debtor/creditor rights, debt negotiation and commercial litigation. He is a member of ABI, the Tampa Bay Bankruptcy Bar, the Hillsborough County Bar Association and the Florida Bar. Mr. Semach received his B.A. in 2005 *cum laude* in classical studies from the University of Florida, Gainesville and his J.D. *cum laude* in 2008 from the University of Florida Levin College of Law.