



# THEsouthernSCOOP

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## Thank You, Judge Davis

On June 30, 2016, as the Honorable Lamar W. Davis, Jr., walked to his chambers for his last day of work, court staff greeted him to the tune of “We Are Family.” After serving 26 years as a bankruptcy judge in our district, followed by an additional four years as a recalled judge, Judge Davis has now retired from the bench. As a valued member of the court family, his service to this district will be forever remembered.



Chief Judge Susan D. Barrett remarked:

As a country and district, we have been fortunate to have Judge Davis’s leadership for 30 years. Time and time again he has shown his strength of character in protecting the legal profession and the integrity of the court while serving the public and fulfilling his oath of office to administer justice equally without respect to persons and in accordance with the Constitution. He has done this in very public ways through his actions and rulings, and he has done this when people were not looking. Regardless of the forum, he has always undertaken such endeavors with the integrity in which he lives his life. On numerous occasions he has placed the needs of this court before his own needs. We all aspire to live up to Judge Davis’s example as a judge and as a human being. It has been a great honor for me, and for all of us, to be able to work with him. We wish him and his family joy and happiness in retirement, but it is a bittersweet time for us all.

## COURTHOUSE LOCATIONS

*AUGUSTA	*BRUNSWICK	DUBLIN	*SAVANNAH	STATESBORO	WAYCROSS
600 James Brown Blvd Augusta, GA 30901	801 Gloucester St, Room 314 Brunswick, GA 31520	100 N Franklin St Dublin, GA 31021	125 Bull St, Room 213 Savannah, GA 31401	52 N Main St Statesboro, GA 30458	601 Tebeau St Waycross, GA 31501
(706) 823-6000	(912) 280-1376	<i>unstaffed</i>	(912) 650-4100	<i>unstaffed</i>	<i>unstaffed</i>

\* Clerk’s Office Hours: Monday through Friday 8:30 am to 5:00 pm

## Thank You, Judge Davis

As a teenager, Judge Davis developed an interest in political science and history. He received his Bachelor of Arts degree in political science from Emory University in 1968. After joining the Georgia Army National Guard and getting married, he attended law school at the University of Georgia, where he graduated *cum laude* with his Juris Doctor degree in 1973.

Thereafter, Judge Davis joined the law firm of Miller Beckmann & Simpson in Savannah. “I had a varied practice,” said Davis who handled everything from general litigation to estate planning. By the time the Bankruptcy Reform Act of 1978 took effect, Judge Davis had developed a strong interest in bankruptcy law, and had begun to specialize in that area. As a partner at the firm, Judge Davis volunteered to devote more time to bankruptcy practice under the new Bankruptcy Code. In addition to his career at the law firm, in 1980, Judge Davis was elected to the Georgia House of Representatives and served a two-year term.

In late 1985, Judge Herman W. Coolidge announced that he would retire from the U.S. Bankruptcy Court for the Southern District of Georgia. “I was ready for a change,” said Davis who applied for the vacancy. He remembers the day he received a call from home that the official envelope regarding the judgeship had arrived in the mail. He immediately drove to his house, and he and his wife Sarah opened the envelope together. On May 30, 1986, the 39-year old Davis was sworn into office as a bankruptcy judge for his first 14-year term.

When he first took the bench, Judge Davis was on the road regularly traveling to the various divisions for court. He recalls hauling large briefcases of records to court with the law clerk. “Everything was done manually back then. It was very much a paper-based system,” said Davis. “Cases were similar though. We were already a heavy consumer court with a large concentration of Chapter 13 cases.”

Judge Davis noted that, over the years, many of the most interesting legal issues arose in what appeared to be mainstream, consumer cases. He offered the following recommendation to attorneys on that topic:

Care about your clients, and advocate for them. Be prepared and candid, but there’s something more important. Be willing to raise issues and make arguments when needed. I can think of several cases where the trajectory of the law changed because an attorney had the gumption to make a novel argument.

An example of a Chapter 13 case in which an attorney successfully made such an argument included *In re Coleman*, Case No. 98-41249-LWD. In that case, the debtor attempted to modify the secured value of a car in a confirmed plan after the car became unrepairable. The creditor objected to the post-confirmation modification, asserting that it was outside the scope of 11 U.S.C. § 1329(a)(1). Noting the split in authority among courts, Judge Davis ultimately agreed with the creditor’s attorney that § 1329(a)(1) does not allow the reclassification of a previously allowed secured claim. *See In re Coleman*, 231 B.R. 397 (Bankr. S.D. Ga. 1999). The Sixth Circuit cited Judge Davis’s opinion with approval in *In re Nolan*, 232 F.3d 528 (6th Cir. 2000).

## Thank You, Judge Davis

Judge Davis also mentioned *In re Waldron*, Case No. 04-41875-LWD. In that case, the trustee successfully argued that the debtor's personal injury claim, which arose after confirmation of the Chapter 13 plan, was property of the estate, pursuant to 11 U.S.C. § 1306(a), despite numerous decisions to the contrary. As a result, the bankruptcy court required the debtor to amend his schedule of assets to list any proceeds resulting from the settlement of those claims for administration by the trustee. Both the district and appellate court affirmed the decision of the bankruptcy court in favor of the trustee. See *Waldron v. Brown (In re Waldron)*, 536 F.3d 1239 (11th Cir. 2008).

When asked about notable business bankruptcy cases during his career, Judge Davis recalled several of them, including *In the Matter of First American Healthcare of Georgia, Inc.*, Case No. 96-20188-LWD, which was a Chapter 11 case involving one of the nation's largest home health care providers and issues related to Medicare overpayments. See *First American Health Care of Georgia, Inc. v. U.S. Department of Health and Human Services (In the Matter of First American Healthcare of Georgia, Inc.)*, 208 B.R. 985 (Bankr. S.D. Ga. 1996). Judge Davis addressed the complex interplay between the priority of maritime liens and UCC liens and security interests in *Topgallant Lines, Inc.*, Case No. 89-41996-LWD. *Topgallant* was a Chapter 11 case that converted to Chapter 7 involving a Savannah-based containership operator. See *Ambassador Factors v. First American Bulk Carrier Corporation (In the Matter of Topgallant Lines, Inc.)*, 138 B.R. 314 (Bankr. S.D. Ga. 1992). Finally, Judge Davis will never forget the Chapter 11 case of *Friedman's, Inc., d/b/a Friedman's Jewelers*, Case No. 05-40129-LWD, addressing the bankruptcy of one of the nation's largest retail jewelers. See *Dunlap v. Friedman's Inc. (In the Matter of Friedman's Inc.)*, 363 B.R. 629 (Bankr. S.D. Ga. 2007).

Later in his judicial career, Judge Davis took an interest in legislative affairs related to bankruptcy reform and judicial resources. After its passage, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) generated a multitude of issues regarding its interpretation. While the court and bar were wrestling with new statutory provisions, they were also adjusting to electronic case filing using the CM/ECF system. "It was a busy time addressing the new law and new technology at once," said Judge Davis.

Judge Davis also served on the Bankruptcy Judges Advisory Group (BJAG) for several years. The BJAG is composed of 13 bankruptcy judges who advise the Director of the Administrative Office of the U.S. Courts on issues affecting the bankruptcy court system.

Judge Edward J. Coleman, III, noted that, while he was a practicing attorney, he had the opportunity to appear in front of Judge Davis in a number of cases over the years. "No person who has appeared before him has been treated with anything but respect," said Judge Coleman. "His reputation for fairness is admired by all the professionals who have practiced in the Southern District of Georgia. He has been recognized by the bar for his contributions to educating others in bankruptcy law."

## Thank You, Judge Davis

Both current and retired court staff commented on how fortunate they felt to work with Judge Davis. From the start of Judge Davis's judicial career, Patsy Burkhalter served as his judicial assistant and worked with him for over two decades. "Nobody could have a more perfect judicial temperament than Judge Davis," said Ms. Burkhalter. "He was patient and willing to listen to everyone. He was always sincere and generous with his time."

Mary Becton, who worked for the bankruptcy court for 42 years and served as the first bankruptcy clerk in this district, made the following remarks: "Judge Davis is a person of utmost integrity, professionalism, and compassion. He served the court with distinction for 30 years. I consider myself fortunate to have worked with him and to have learned from his excellent leadership."

"It was a pleasure and rewarding experience working for Judge Davis as his courtroom deputy for about 25 years," said Barbara Anderson. "He was not only brilliant, but a fair and compassionate judge. I know the bankruptcy court will not be the same without him."

Dwight D. Eisenhower once said: "The qualities of a great man are vision, integrity, courage, understanding, the power of articulation, and profundity of character." Renee Simmons observed, "In the short time that I worked directly with Judge Davis, he exemplified all of those qualities. It was a great privilege and honor to work for him."

When asked what he would say to any newly appointed bankruptcy judge, Judge Davis gave this sage advice:

What an honor you will feel serving as a judge in the federal system. You will provide an important public service, and you will have the opportunity to strengthen the judicial branch. Never lose sight of why you wanted to be a judge. Let that be your guiding star, and try to remember every day that it is a privilege to have your position. Be willing to listen and keep an open mind. As judges, we honor the doctrine of stare decisis, but we should be open to new arguments when there are distinctions in the facts or legal issues presented that seek an alternative outcome based on a good faith argument. It is easy to become set in your ways and less amenable to welcome novel arguments. I would urge you to bite your tongue and always listen. Sometimes they are right.

The court thanks Judge Davis for his incredible service to the federal judiciary and wishes him a fulfilling retirement.

## Rules and Forms for Public Comment

The Judicial Conference Committee on Rules of Practice and Procedure has proposed amendments to Bankruptcy Rule 3015 and adoption of a new Bankruptcy Rule 3015.1. These rules have been published for public comment, and the comment period is open until **October 3, 2016**.

Additional bankruptcy rules and forms have been published for comment through **February 15, 2017**. They include: (1) Bankruptcy Rules 3002.1, 5005, 8002, 8006, 8011, 8013, 8015, 8016, 8017, 8018.1 (new), 8022, 8023; (2) new Appendix to Part VIII of the Federal Rules of Bankruptcy Procedure; and (3) Official Forms 309F, 417A, 417C, 425A, 425B, 425C, and 426.

For more information about the proposed changes and how to submit comments, go to: <http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>

## SmartScan

Smartscan is a new service for retrieving records offered by the Federal Records Center (FRC). The FRC will locate and pull the paper record, scan it to PDF, and transmit the PDF file to the court via email. Note: A document cannot be sealed, restricted or exceed 100 pages.

For small or urgent requests, SmartScan is an ideal alternative to viewing paper records at the FRC or having boxes shipped from the FRC to the court. The current fee for the SmartScan service consists of a \$10.00 judiciary fee, plus a \$9.90 FRC retrieval charge, and \$0.65 per page. The fee has been incorporated in item 12 of the [Bankruptcy Court Miscellaneous Fee Schedule](#).

For additional information or to initiate a SmartScan request, please contact the clerk's office.

## Revised Judge Assignments

With Judge Davis's departure from the bench, cases were reassigned among the three remaining judges. The only division split between two judges is the Savannah division, with Judge Coleman and Judge Dalis each being assigned a percentage.

It will be easy to distinguish which judge is handling a case by looking at the judge's initials at the end of the case number. Please see the chart below outlining the new case assignments.

Judge John S. Dalis	Chief Judge Susan D. Barrett	Judge Edward J. Coleman
All Brunswick Cases	All Augusta Cases	All Statesboro Cases
All Waycross Cases	All Dublin Cases	All Savannah Ch. 7/11/12 Cases
20% of Savannah Ch. 13 Cases		80% of Savannah Ch. 13 Cases

## Opinions Database

From the court's website, the public can search the bankruptcy court's [Opinion Database](#) by judge, date range, and search term. Below is a summary of an opinion included in the database:

### ***In re Rogers*, Case No. 14-40219-EJC (Bankr. S.D. Ga. June 24, 2016)**

The court held that the absolute priority rule applies in individual Chapter 11 cases. In addition, the court found that the "new value exception" to the absolute priority rule is applicable in individual Chapter 11 cases. The court denied the debtors' disclosure statement because the proposed plan violated the absolute priority rule, thus it was not confirmable. Further, the court found that a valuation hearing was necessary to determine the value of the debtors' non-exempt property proposed to be retained upon confirmation. The court held that an auction process, as provided in *Bank of America National Trust and Savings Association v. 203 North LaSalle Street Partnership*, 526 U.S. 434 (1999), was not required to determine the value of the debtors' non-exempt property. Instead, the Court would allow the parties to introduce evidence as to the value.



## CM/ECF Event Updates

Below are descriptions of new and modified events in CM/ECF.

### **Bankruptcy > Miscellaneous > Amended Schedules/Statements- New**

This event is an all-inclusive event for the filing of amended schedules and statements. The event allows each schedule and/or statement (Schedule A/B, Schedule C, Schedule D, Schedule E/F, Schedule G, Schedule H, Schedule I, Schedule J, Schedule J-2, Summary of Assets and Liabilities, Declaration Concerning Schedules, Statement of Financial Affairs, Statement of Intention, Disclosure of Attorney Compensation and Notice Required for Individuals Filing for Bankruptcy) to be filed in any combination.

A filer may incur a fee for amending Schedules D and E/F. To determine whether the \$30 amendment fee under item 4 of the [Bankruptcy Court Miscellaneous Fee Schedule](#) is applicable, the filer will be asked to indicate the action being taken regarding amended Schedules D and E/F

The new Amended Schedules/Statements event should be used in place of these retired events:

**Bankruptcy > Miscellaneous > Amended Schedules (Convert CH 13 to 7 only)- Retired**

**Bankruptcy > Miscellaneous > Amended Schedules D, E/F (Fee Required)- Retired**

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### **Bankruptcy > Misc > Certification of Plan Completion and Request for Discharge (Ch 13)- Modified**

The certification event has been modified to include a mandatory relation to the Trustee's Notice of Completion of Plan Payments. If the trustee event does not appear on the docket, the filer may not proceed with the docketing of the certification. This was done to prevent the premature filing of the certification.

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### **Bankruptcy > Misc > Certification of Plan Completion and Request for Discharge (Ch 13)- Modified**

### **Bankruptcy > Motion > Hardship Discharge (Ch 12/13) - Modified**

Both of these events require service on the U.S. trustee. In Chapter 13 cases, because the U.S. trustee is not typically a party to the case and therefore not a Notice of Electronic Filing (NEF) recipient, some Chapter 13 debtors have received deficiency notices for failure to serve the U.S. trustee. The court has been able to modify both of these events so that service on the U.S. trustee can be accomplished electronically. For the attorney filer, a display has been added to the events stating the U.S. trustee will be served electronically, and the final docket text of both events will reflect that the U.S. trustee has been served electronically.

## Exhibit A to Disclosure Statement

The Chapter 11 debtor must file an Exhibit A to its disclosure statement, pursuant to the court's instructions on the Notice of Chapter 11 Bankruptcy Case (341 notice), as well as the hearing notice on the disclosure statement. A link to the [Exhibit A fillable form](#) is provided in the Notice of Chapter 11 Bankruptcy Case. The fillable form is also accessible from the court's website under **Court Information> Court Forms> [Disclosure Statement-Exhibit A \(updated April 2016\)– Fillable Form](#)**.

The Exhibit A form instructs the debtor to list property in the following order: (1) encumbered real property; (2) encumbered property (non-real estate); and (3) unencumbered property. The following information about the property is to be included on the form:

Property Description (short description)	Creditor Name and Priority Position	Total Debt Secured by Subject Property (if any)	Value Listed in Schedules	Value Proposed in Disclosure Statement and Source of Value	Summary of Plan Treatment.
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The debtor must indicate whether more detailed documentation is attached to the Exhibit A form.

## Rule 26(f) Report

The report of parties' Rule 26(f) conference is now available in fillable format from the court's website under **Court Information> Court Forms> [Rule 26\(f\) Report-Fillable](#)**.





## Case Query Feature in CM/ECF

Looking for information on a debtor or bankruptcy case? The Case Query feature in [CM/ECF](#) is a useful tool for searching court records by case number, party name, social security number, or tax identification number. A registered CM/ECF user with a CM/ECF login may run queries and reports to search for case information, such as copies of documents filed, case status, filing fee information, deadlines, notices of electronic filing, parties, and information on the filer. Enter the name or case number to open a list of information available to the user. Please note that clicking on QUERY may open a separate screen for you to enter your PACER login and password before continuing.

The public, through a [PACER](#) account, can also access queries and reports. If you do not have a PACER login, contact the PACER Service Center at 1-800-676-6856 to establish an account. You may also register for PACER online at [www.pacer.gov](http://www.pacer.gov).

To run a case query, select “Query” from the CM/ECF menu bar. Enter search terms (e.g., case number, last name). Then, click “Run Query.”

The screenshot shows the CM/ECF Case Query interface. The navigation bar includes 'Bankruptcy', 'Adversary', 'Query', 'Reports', and 'Utilities'. The 'Query' menu is active, showing options like 'Parties', 'Flags', 'Docket Activity', 'Motions', 'Docket Report', and 'Claims Register'. The search form has the following fields and options:

- Case Number: [Text Input]
- Last / Business Name: [Text Input]
- First Name: [Text Input]
- SSN / ITIN: [Text Input]
- Type: [Dropdown Menu]
- Filed Date: [Date Picker] to [Date Picker]
- Last Entry Date: [Date Picker] to [Date Picker]
- Middle Name: [Text Input]
- Tax ID / EIN: [Text Input]
- Open cases:
- Closed cases:
- Nature of Suit (AP and MP cases only):
  - 01 (Determination of removed claim or cause)
  - 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))
  - 11 (Recovery of money/property - 542 turnover of property)
  - 12 (Recovery of money/property - 547 preference)

Buttons: Run Query, Clear. Link: Mobile Query.

Once a case is located, links will appear to search case information. Note: If you select “Filing Fee,” it will display the fee status for cases filed on or after November 14, 2011. For cases filed prior to that date, you will need to look at the case docket.

### Mobile Query

#### Query

- |  |  |
|--|--|
| <a href="#">Alias</a>                            | <a href="#">Status</a>                 |
| <a href="#">Associated Cases</a>                 | <a href="#">Trustee</a>                |
| <a href="#">Attorney</a>                         | <a href="#">View Document</a>          |
| <a href="#">Case File Location</a>               | <a href="#">Filing Fee</a>             |
| <a href="#">Case Summary</a>                     | <a href="#">Claims Register</a>        |
| <a href="#">Creditor</a>                         | <a href="#">Mailing Matrix by Case</a> |
| <a href="#">Deadline/Schedule</a>                |  |
| <a href="#">Docket Report ...</a>                |  |
| <a href="#">Filers</a>                           |  |
| <a href="#">History/Documents</a>                |  |
| <a href="#">Notice of Bankruptcy Case Filing</a> |  |
| <a href="#">Party</a>                            |  |
| <a href="#">Related Transactions</a>             |  |

## New Calendar Feature

The court has made an enhancement to the [Judges' Calendar](#), which is available from the court's public website

All judges' hearings and trustees' 341 meetings may now be viewed on one calendar by selecting "Month View." You will see matters scheduled for all locations, judges, and trustees.

As you have in the past, you may still select a particular judge or trustee to view only his/her calendar.



**Public Web Cal**  
Database Date: 5/19/2016 11:20:24 AM

Welcome to the United States Bankruptcy Court  
for the Southern District of Georgia

Calendar

**NEW!** Month View

Please be advised that the calendar information available on this site is subject to change without notification. Make selections below and then click on the "DISPLAY EVENTS" button.

You will be provided with All Calendar Events.

Choose a Judge or Trustee:  
Select a Judge or Trustee

Display Events

**PLEASE NOTE:** Multiple court events may be scheduled on the same day (hearings and meetings). Also, cases may be heard by alternate Judge so check calendars for Division.

## Filing Fee Payments

Please follow this guidance when paying filing fees:

- An attorney filer must pay the filing fee electronically through Pay.gov.
- A debtor may make payments in the form of a money order or certified check payable to: Clerk, U.S. Bankruptcy Court.
- Personal checks of a debtor shall not be accepted.
- If a debtor wishes to pay in cash, the debtor must deliver it in person to the clerk's office in the exact amount. The clerk's office does not provide change. Please do not send cash through the mail.
- In cases filed on or after March 1, 2016, Chapter 13 debtors pay the filing fee directly to the clerk, and the fee can no longer be paid through the Chapter 13 plan. See [General Order 2015-5](#) and [Information Regarding Payment of Chapter 13 Filing Fees](#).
- A Chapter 13 debtor makes plan payments to the trustee. Please do not mail plan payments to the clerk's office.

## GA-S Case Filing Statistics for 12-Month Period Ending June 30, 2016

Total Filings	Chapter 7	Chapter 11	Chapter 12	Chapter 13
7,534	1,452	20	11	6,051

Statistical data is available to the public on the Judiciary's website at:  
<http://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables>

### **COURT WILL BE CLOSED IN OBSERVANCE OF THE FOLLOWING 2016 FEDERAL HOLIDAYS**

Monday, September 5th - Labor Day  
Monday, October 10th - Columbus Day  
Friday, November 11th - Veteran's Day  
Thursday, November 24th - Thanksgiving  
Monday, December 26th - Christmas

CM/ECF and PACER will be available during these times  
for online filing and access to case information.

Please provide any comments or article ideas to  
[meredith\\_mathis@gas.uscourts.gov](mailto:meredith_mathis@gas.uscourts.gov) or [lainie\\_saul@gas.uscourts.gov](mailto:lainie_saul@gas.uscourts.gov).