



Something Old, Something New, Something Borrowed, Someone Blue.

**Bankruptcy Tips That Can Save Attorneys Time,
Money, and Frustration.**

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Something Old.

Past Practices to Avoid in the Future.

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Avoid Quick Files/Emergency Filings.

- Avoid filing new cases with incomplete documentation and/or unpaid filing fees whenever possible.
- Even waiting until the next morning to pay the filing fee or file key documents (credit counseling certificate, pay stubs, etc.) requires significantly more time and effort for both attorneys and the Clerks to
 - (1) set up a monitoring system
 - (2) follow up, and
 - (3) confirm compliance.
- Can create problems for you as attorneys because it may draw an order to correct that goes to the client.

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Notice of Withdrawal of a Motion Will Suffice.

- If you file a motion and it was resolved by the parties, all that is necessary to resolve the pending motion on the record is to file a Notice of Withdrawal of that pending motion.
- No Motion to Withdraw the pending motion is needed.
 - Even if the original motion was opposed.
- If the party opposed to the original motion wants some kind of relief after the original motion is withdrawn (e.g., attorneys fees, sanctions, etc.), then that party can file their own motion seeking the relief that is sought.
- Caveat: Remember that Rule 7041 governs dismissals of actions (e.g., complaints, cross-claims, counterclaims).

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If You Set a Motion For Hearing, Be At the Hearing, Unless . . .

- If you file a motion with a Notice of Hearing, the motion is set to the hearing calendar.
 - This is unlike a motion that gives *notice with opportunity*, which will only be set for hearing if an objection is filed.
- Therefore, if you serve a Notice of Hearing, you should appear at the scheduled hearing, regardless of whether or not any written objection was filed, unless you:
 - Withdraw the motion, or
 - Obtain a continuance of the hearing, or
 - Submit a proposed stipulated order ruling on the motion and be sure that either
 - The Judge approves and files the order or
 - The Clerk's Office verifies that the hearing was cancelled or continued.

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Courtesy. More than a Nicety.

- If you withdraw a motion that was set for hearing, or you obtain a continuance of a hearing:
 - **ALWAYS:** Confirm that all interested parties have been notified that the hearing was cancelled or continued.
 - No one wants to show up for a hearing that was cancelled or rescheduled.
- If a matter set for hearing is withdrawn the day/night before a hearing, please alert the Clerk's Office with a quick phone call or email.
 - It allows the matter to be dropped from the docket.



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Something New

New Technology. New Habits. New Happiness.



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New Remote Resource: TeamViewer

- We can set up remote assistance and/or training that will allow us to share screens with you in real time.
- How to share screens:
 - Download the freeware version of TeamViewer onto the computer you will be using. (Be aware that some firewalls and server configurations may reject screen sharing software due to security concerns.)
 - Contact the Clerk's Office to set up a TeamViewer meeting.
- Options:
 - We can see your screen, or
 - You can see our screen.

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New Hyperlinking Tool: Makes the Law Easy for the Judge to Access.

- New hyperlinking tools are becoming available to the Judges.
- They will create hyperlinks in substantive CM/ECF documents, including:
 - Motions.
 - Briefs.
 - Not schedules or other bulky documents usually devoid of legal authority.
- The only action required of attorneys:
 - Use recognized citation formats (Bluebook).
 - Electronically file text-based .pdf documents in CM/ECF
 - Avoid filing image-based .pdf documents.

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New Habits.

Good Habits Save Time and Energy.

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Practices to Adopt: Match the Debtors' Names in Case Captions.

- In the case captions of all documents you file, list the Debtor(s)' names exactly as they appear in the CM/ECF case name.
 - Especially when filing notice of a Debtor's change of address.
 - Otherwise, it creates additional steps for the Clerk's Office when editing.

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Avoid Delays During Emergencies.

- Expedited Hearings
 - E.g., Motion to Extend Automatic Stay (requires hearing within 30 days of petition).
- Call the Clerk's Office immediately after filing the motion to expedite hearing to obtain appropriate guidance.
 - Call the Clerk's Office where the case is pending.
 - E.g., if the case was filed in Topeka, call the Topeka Clerk's Office.

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Avoid Delays To Filing Fee Accommodations.

- ▶ Application for Waiver of Chapter 7 Filing Fee
 - ▶ File the Schedules promptly.
 - ▶ The Application for Waiver may not be addressed until after the Schedules are filed.
- ▶ Chapter 13 Motions to Pay Filing Fee in Installments
 - ▶ Cannot be addressed until after the Plan is filed if proposing to pay filing fees through the Plan.

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How to Avoid Delays to Your Draft Orders.

- ▶ Be sure that your boilerplate language is accurate for the case.
 - ▶ E.g., draft orders will be rejected if the draft says no objection was filed or no hearing was held, when in fact an objection was filed or a hearing had been held.
- ▶ Include in the draft order the substance of the relief you requested in your motion.
 - ▶ Do not merely state "The Motion is granted."
 - ▶ Instead, state something like: "The Trustee's Motion to Compel (ECF 20) seeking production of the Debtor's 2012 federal tax return by May 15, 2014, is granted."
- ▶ Follow instructions to correct.
 - ▶ If an Order to Correct was issued, be sure to address each item noted in the order.
 - ▶ Take thorough notes on any instructions given by telephone, or ask the person who spoke to the Clerk's Office for their notes.
 - ▶ Feel free to call the Clerk's Office if you do not understand the instructions. We are here to help.

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How to Avoid Delays to Your Draft Orders.

- ▶ Properly format draft orders:
 - ▶ Submit draft orders as a text-based .pdf document.
 - ▶ Avoid submitting an image-based .pdf document.
 - ▶ Do NOT print a draft order, scan it, and upload it.
 - ▶ DO print directly to .pdf from your word processor.
 - ▶ Judges can edit a text-based .pdf draft order. They cannot edit image-based .pdf documents.
 - ▶ If the Judge has a minor tweak, it may save you the need to resubmit a revised draft order.

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How to Avoid Delays to Your Draft Orders.

- ▶ Properly format draft orders:
 - ▶ 4 inch top margin for the Judge to insert signature block.
 - ▶ Properly e-signed by the submitting party.
 - ▶ Properly e-signed by the Trustee where applicable (virtually all instances in Chapter 13 cases).
 - ▶ Key exceptions that do NOT require Chapter 13 Trustee signatures:
 - ▶ Motions to Extend Time to File Schedules.
 - ▶ Motions to Expedite Hearing.

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Avoid Delays to Payouts of Small Dividends and Unclaimed Funds.

- The Clerk's Administrative office can process payments more quickly (after the Judge signs a payout order) if you provide all necessary information early.
- If you include the following information in your motion to the Court, it will also help provide the Clerk's Office the information it needs when the time comes to process the payment:
 - Case caption (name and case number)
 - The amount requested in the motion for payout
 - A brief explanation of the reason for the payout (e.g., failed to cash check in time, lost check, address changed so check was returned to sender, etc.)
 - The name and address of the proposed payee.
- For fastest processing, email becky_nahr@ksb.uscourts.gov "heads-up" copies of:
 - The motion for payout—when you file the motion, and
 - The draft order—when you electronically submit a draft order to the Court.

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New Forms.

With New Instructions.

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New Forms: How to Order Transcripts and Audio Recordings

- Follow the recently revised instructions on forms to order transcripts and digital audio recordings of hearings.
 - Electronically file the completed forms.
 - Submit hard copies of the forms only if you do not have rights to file electronically.
 - For audio recordings, use a separate form for each date.
- Fillable forms are available on our website at:
<http://www.ksb.uscourts.gov/index.php/resources/court-forms>
 - Form AO435KS: Transcript Order Form.
 - Form AO436KS: Digital Recording Order.

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Something Borrowed . . .

Please come and try it first.

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Please Try Our Courtroom Equipment.

- If you want to present electronic evidence:
 - Schedule a time well in advance to become familiar with the Court's equipment. We will show you how to use it.
 - If you plan to use your own equipment (e.g., laptop, iPad, AppleTV), schedule a time to test the setup a week or two before the hearing.
 - You will rest more easily knowing your system is compatible.
 - It provides a chance to debug or polish the setup.
 - It will make setup on the day of the trial/hearing easier, faster, and more reliable.
 - Be in the courtroom at least one hour before the trial/hearing to set up.
- Remember, a delay due to technical problems still keeps the Judge waiting.

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Someone Blue?

Don't let it be you.

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Motion to Delay Discharge: How to Avoid an Unhappy Ending.

- ▶ Clerk's Office is implementing new procedures to enter discharges more efficiently and quickly after a case becomes eligible for discharge.
- ▶ Issue: If discharge was entered, some Judges will not reopen the case to allow a Debtor to file a Reaffirmation Agreement.
- ▶ Potential Problem: If a timely discharge is entered before you submit a Reaffirmation Agreement, the inability to submit a Reaffirmation Agreement could bring an unhappy conclusion to your relationship with your client.
- ▶ Solution Options. If you want a:
 - ▶ Slight delay: Contact the Clerk's Office well in advance of the discharge deadline to request a slight delay to entry of discharge.
 - ▶ Longer delay: If a substantial delay is requested, you may want to file a Motion to Delay Discharge.

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When You Cannot Reach CM/ECF

What to do.

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What to Do if CM/ECF is Inaccessible.

- Submit your document by alternate means.
 - Call the Clerk's Office ASAP to alert us to look for the submission.
- If you get it to the Clerk's Office, we will file it.
 - Preferred: Email the electronic document to the Case Administrator assigned to the case.
 - Alternative: Hand-deliver a hard copy to the Clerk's Office.
 - As a Last Resort: Fax it to the divisional office where the case is assigned.
 - Wichita: (316) 315-4111.
 - Topeka: (785) 338-5911.
 - Kansas City: (913) 735-2111.
- Keep records that CM/ECF was inaccessible at the time. (E.g., email notice that CM/ECF was temporarily down, or evidence that your law office's internet crashed.)

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What to Do if CM/ECF is Inaccessible.

- Service
 - Serve the document to all appropriate parties.
 - File a Certificate of Service that accurately reflects the method(s) used to serve the document that was not electronically served by CM/ECF.
 - D. Kan. LBR 5005.1 App. 1-01 § IX.B states that "Certificates of Service shall be in substantial compliance with D. Kan. LBR 9013.3."
 - D. Kan. LBR 9013.3(a) requires a filer to "make proof of service of any pleading, motion, or other document required to be served, by filing a certificate. The certificate must either be included in the pleading or document served, or filed separately as soon as possible, and in any event before any action based on the service is requested or taken by the court."
 - Note: D. Kan. LBR 5005.1 App. 1-01 § IX.C "Nothing contained in this procedure [for electronic filing] relieves counsel of the burden of obtaining personal service under Fed. R. Bankr. P. 7004 or Fed. R. Civ. P. 4, where appropriate."

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What to Do if CM/ECF is Inaccessible.

- ▶ Consider whether you should file a motion seeking appropriate relief from the presiding Bankruptcy Judge.
 - ▶ D. Kan. LBR 5005.1 App. 1-01 § XI (Technical Failures): “A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.”
 - ▶ D. Kan. LBR 5005.1 App. 1-01 § I.C “The court may, from time to time, and only in exceptional circumstances, relieve attorneys from the electronic filing requirement.”

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What to Do if CM/ECF is Inaccessible.

- ▶ Caveat: D. Kan. LBR 5005.1(c):
 - ▶ “All petitions, motions, memoranda of law, or other pleadings and documents filed with the court in a case assigned to the Electronic Filing System *must be filed electronically* unless otherwise permitted in these rules, the administrative procedures guide, or court authorization.” (emphasis added).
- ▶ Example: Local Rules no longer formally recognize fax filing, so if you submitted the document by facsimile, you may want to ask the Court to approve the “filing” method.

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Contact Us

We are ready to help.

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Bankruptcy Clerk's Office Contacts

- David Zimmerman, Clerk of the Bankruptcy Court, District of Kansas
 - (316) 315-4180
- Hugh Zavadil, Chief Deputy Clerk
 - (316) 315-4180
- Judy Cowger, Deputy-in-Charge, Kansas City (Kansas) Division
 - (913) 735-2112
- Melanie Davis, Deputy-in-Charge, Wichita Division
 - (316) 315-4112
- Donna Urbom-McClure, Deputy-in-Charge, Topeka Division
 - (785) 338-5912