

BY HON. MARTIN R. BARASH

The Unsung Heroes of the System

Bankruptcy Court Staff Keep the Wheels of Justice Spinning Despite Historic Budget Cuts

What happens when the budget and staff of the bankruptcy courts are reduced, nearly year-over-year, for more than a decade? You might expect court operations to suffer and the quality of services to decline.

My experience is that the opposite has been true. Notwithstanding the significant challenges posed by a constantly tightening budget environment, the staff of our bankruptcy courts have continued to provide outstanding service to the constituents of the bankruptcy system. They have done this by changing the way they operate, embracing technology and identifying other ways to achieve more with less. The funding that bankruptcy courts receive for salaries and operational expenses (excluding judges and law clerks) is tied directly to the total number of bankruptcy case filings.

In 2010, nationwide bankruptcy filings reached 1,572,116, reflecting the highest number of filings since the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). By 2024, the number of annual filings had plummeted to 486,613. As bankruptcy filings have declined, so has the budget for the bankruptcy courts. The brunt of these cuts has been felt most directly by the staff who run the courts.

In fiscal year 2012, filing levels resulted in a budget employing 4,064 staff members nationwide. In fiscal year 2024, because of lower filings, tightening congressional appropriations and more stringent budgeting formulas within the judiciary, the budget for bankruptcy courts enabled the employment of only 2,544 individuals. The bankruptcy courts achieved these reductions in headcount over the past 12 years through mandatory layoffs, buyouts and retirements.

In the U.S. Bankruptcy Court for the Central District of California — my court and one of the largest and busiest in the nation — we have had to reduce our staff from a high of 312 individuals in 2012 to just 114 individuals in 2024, a reduction of nearly two-thirds. Not surprisingly, these changes have posed significant operational challenges.

As bankruptcy courts have reduced their staffing levels, they have lost staff members with valuable training, experience and institutional knowledge who cannot be replaced. Even when case filings decline, courts must continue to employ enough individuals to enable the courts to operate as courts, fulfilling such functions as case intake and admin-

istration, human resources, information technology, space and facilities management, financial management and procurement.

These changes have had an enduring human impact, not only for the many staff members who have been laid off, but also for those who have had to effectuate these staff reductions and those left behind to absorb the workload. When I was an attorney, I must admit that I was oblivious to the ebbs and flows of filing statistics, the mechanics of judiciary budgets, or their impact on our courts. As a bankruptcy judge for the last 10 years, I have been amazed at — and have come to deeply admire — how our bankruptcy court staff have met these challenges with hard work, creativity and grace.

One way that bankruptcy courts are meeting this challenge is by redefining employee job responsibilities, restructuring their operations and changing the way they train their employees. In the past, individuals were hired and deployed in highly specialized positions. For example, an individual might be employed as a case intake clerk, case administration clerk, courtroom deputy or electronic court recording operator. These were separate jobs with distinct job responsibilities. Employees were trained to perform the job for which they were hired and nothing more.

As staffing levels have shrunk, bankruptcy courts have adapted by cross-training employees to perform multiple job functions and redeploying those employees to serve more than one traditional job function. For example, my own courtroom deputy performs all the job functions described above, and more.

In addition to managing my courtroom and maintaining my court calendar, my courtroom deputy shares responsibility for electronically recording and maintaining notes of every hearing, reviewing every pleading filed in every one of my cases for compliance with applicable rules and procedures, reviewing and correcting docket entries drafted by electronic filers, entering every order I sign on the court's electronic docket, and fielding inquiries and requests from attorneys and self-represented litigants in all my cases. She also shares responsibility for staffing our in-person intake window (where self-represented debtors typically file their pleadings), and conducting the daily fiscal review of funds received there. She and her colleagues are literally doing "Everything, Everywhere, All at Once." By expanding the breadth of each employ-



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ee's skillset and responsibilities, bankruptcy courts have been able to continue their mission with fewer people and generate greater resiliency in the event of future budget cuts.

Another way that bankruptcy courts have been coping with smaller budgets is with a practice called "shared administrative services" (SAS). It is a simple concept and has been around a long time in the courts, but it has become increasingly common in the last decade. Under an SAS arrangement, a court employee with specialized skills is "loaned" out to another court or administrative unit with a need for those skills. The entity receiving services reimburses the court that employs the individual for the value of those services. The arrangement might be for a single project, an ongoing project or even a fixed hourly basis.¹ Common SAS arrangements include those involving human resources, information technology, web and graphic design, financial services, interior design and space planning, training, and procurement.

SAS is another way that bankruptcy courts have managed their fiscal predicament in a thoughtful and creative manner. Despite a difficult budget environment, SAS is helping bankruptcy courts maximize their scarce resources and retain the talent they need to provide outstanding service to the public. A court that shares talented staff members with other courts — and is reimbursed for it — can afford to retain those individuals. Conversely, a court entity that borrows talented individuals from other court units can meet its essential administrative or operational needs without having to pay for a full-time employee. SAS also enables courts to spend less on outsourcing.

Another way that bankruptcy courts have addressed a shrinking headcount is by developing new technologies and implementing existing technologies to streamline operations and improve customer service. One initiative is the electronic proof of claim (ePOC), which enables creditors to create, file, amend, withdraw or supplement a proof of claim without the need for a login or password. Creditors can access ePOC's user-friendly screens from the website of a participating court to input claim information into a virtual proof of claim form (Official Form 410), add supporting attachments and immediately docket a claim. This software not only makes the claim-filing process more accessible to the public, it reduces the labor involved in receiving and docketing creditor claims.

Two related innovations are electronic self-representation (eSR), and a complementary program developed by my own court called electronic drop box (eDB). The eSR is an online tool that enables individuals to prepare a chapter 7 or 13 petition without the assistance of an attorney. The eDB enables self-represented parties without an electronic filing account to transmit .pdf documents to the court for filing. The eDB works in conjunction with the eSR to make bankruptcy filings more accessible to self-represented individuals and less time-consuming for court staff.

Another impactful development is CourtSpeak. This software acts as a bridge between the bankruptcy courts' audio recording software and their electronic dockets. CourtSpeak

enables bankruptcy courts to post audio recordings of hearings directly to the appropriate case docket, where attorneys, litigants and members of the public can access those recordings. The development and increased adoption of CourtSpeak by bankruptcy courts is not only increasing timely access to these recordings, it is also reducing the staff time involved in fielding requests for recordings, receiving payment and creating copies of those recordings.

Finally, although not new, greater reliance by bankruptcy courts on the Bankruptcy Noticing Center (BNC) has reduced costs associated with providing required notices to parties-in-interest and the staff time necessary to do so. The BNC centrally produces and transmits essential notices — both in electronic and paper form — on behalf of all bankruptcy courts. Offloading this task to the BNC has helped enable bankruptcy courts to deal with staff reductions.

Although the adaptations and innovations discussed herein have made it possible for bankruptcy courts to continue providing a high level of service despite perennial budget cuts, these achievements have not been without a human cost. Court staff fortunate enough to survive the barrage of layoffs and attrition over the past decade have been called upon to do more and more.

To meet the new expectations placed on them, they have had to extend beyond their comfort zones, put in the time and effort to master new skills and technologies, and work harder than ever — all with the prospect of future budget cuts and layoffs hanging over them. The fact that they have managed to do so and keep the bankruptcy system operating is impressive and worthy of our appreciation.

I was particularly impressed with the staff of my own court during the COVID-19 pandemic. When it looked like public spaces were shutting down virtually overnight, the staff jumped into action. Our technology staff quickly identified and implemented remote-hearing software and upgraded our infrastructure to enable remote hearings and trials. Our operations staff quickly learned those new technologies and developed new procedures for remotely handling the court's work. Our procurement staff quickly made sure that everyone had the necessary equipment to do their jobs from home.

It was a seamless transition, and although the pandemic itself was tragic, my court's response was inspiring and a great source of personal pride. The state courts in California initially struggled to respond to the pandemic, resulting in a substantial backlog. However, our court did not, which is directly attributable to the hard work, dedication and resiliency of our staff.

I also credit our clerk of court and her management team for their thoughtful efforts to maintain staff morale despite a decade of annual budget cuts and staff reductions, which is no small feat. They have done this by offering our court staff a wide array of opportunities for personal and professional development, and by recognizing outstanding contributions by staff members to the work of the court.

For example, our court implemented a program called "RESET" to encourage interested staff to cross-train in various areas of court operations. It implemented another pro-

¹ Alternatively, courts may trade one service for another based on their respective staff expertise, or split the cost of a shared expense, such as a contract that will service both courts that are co-located.

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gram called “FLEX” to enable interested staff to learn about all the court’s administrative departments and opportunities for advancement, and to assist those individuals in developing a career path within the court and/or the larger judiciary.

Our court also launched a series of programs called the Centers of Excellence (CoEs), which focus on the areas of communication, court technologies, operations improvement, workforce development and employee engagement. CoEs are voluntary programs in which employees share best practices, expertise, research and training in each area — all with the objective of improving the quality and efficiency of court functions. Among other things, CoEs have been effective at increasing staff engagement and a sense of personal ownership in the work of the court.

These are just a few examples. Our court also tries to promote good morale by presenting its own in-person and online professional-development programs, encouraging staff to participate in training offered by the Federal Judicial Center and the National Conference of Bankruptcy Clerks, imple-

menting employee-recognition programs, educating staff on strategies for maintaining a safe and welcoming workplace, and celebrating the diversity of its staff.

Do all these strategies work to maintain good morale all the time? No. Sadly, there are moments every year when nothing can assuage the anxiety that surrounds the latest budget announcement and the prospect of new staff reductions. However, I believe that these efforts go a long way to help the court to promote a positive work environment and help our staff to maintain a professional, customer service-oriented attitude.

Conclusion

Being a bankruptcy judge is a great honor and brings me great satisfaction, but the simple reality is that I would not be able to do my job — and our bankruptcy system would not operate — without the dedicated public servants that staff our bankruptcy courts. They do a challenging job and have been doing it well under challenging circumstances. They deserve our respect, admiration and appreciation. **abi**

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