

November 10, 2009 [www.orb.uscourts.gov](http://www.orb.uscourts.gov)

### **Recent Opinions**

*Smith v. Rush*, 9th Cir. No. 07-35760, BAP No. OR-06-1370BMoH, Adv. No. 05-07043-aer  
October 29, 2009

Dismissal, express authority, failure to prosecute, implied authority, reconsideration, service of process, FRBP 9023, FRCP 59(e)

The bankruptcy court dismissed an adversary proceeding with prejudice after plaintiff/debtor failed to effect proper service within the time initially allowed and an extension. The court denied plaintiff's motion for a second extension and later for reconsideration. The BAP affirmed and, in this opinion, so did the Ninth Circuit. The record did not establish that an attorney who represented defendants in state court had either express or implied authority to accept service in the bankruptcy court case.

Click on [Opinions](#) (the last item in the column headed **Information for Attorneys**), for two search options. Clicking on [To view a list of all current opinions](#) takes you to a list of opinions organized by date, most recent to oldest. Entering a search term in the box on the [Opinions](#) page produces a list of results. Search logic for opinion searches appears on the [Opinions](#) page.

### **NEW ITEMS:**

#### **Court Closure**

The bankruptcy court will be closed Wednesday, November 11, for the Veterans Day holiday.

#### **New Chief Clerk**

Charlene Hiss, currently the court's Chief Deputy Clerk, will become Clerk of the Court in January, 2010, upon Terry Dunn's retirement. Congratulations Charlene!

#### **Chief Deputy Clerk**

The position of Chief Deputy Clerk will be open January 4, 2010. Details about the position are set forth on the website; click on "11/05/09 - Chief Deputy Clerk" - under **Court News and Announcements** on the home page. To ensure consideration, apply by **November 26, 2009**.

#### **Proposed Updates to Local Rules**

Click on "11/10/09 - Proposed Updates to Local Bankruptcy Rules (LBRs)" - under **Court News and Announcements** on the home page, for details. The proposed amendments incorporate changes to the rules made by General Orders 09-1, 09-2, and 09-3, and propose some additional changes. Comments on the proposed changes must be made by **December 10, 2009**. The effective date of the new local rules will be January 1, 2010.

#### **ECF Training**

Currently scheduled training dates are November 18 for **Portland**, November 19 for **Eugene**, and, for **Eugene and Portland**: December 10, 2009, and January 13, February 25 and March 17, 2010. Lawyers get 4 CLE credits for ECF training. Sessions run from 8:30 am to 12:30 pm. **The Clerk's office will add ECF classes if there is sufficient demand.**

#### **PREVIOUSLY PUBLISHED ITEMS:**

The following is a summary of items added in the past several weeks.

#### **Notices to Oregon Employment Department**

The Oregon Employment Department asks that you use the correct address for notices and payments. The correct addresses can be found on the Debtor-Creditor Section website at <http://osb-dc.org/index.htm>.

#### **ECF Tips and Tricks**

The following ECF Tips and Tricks were updated October 15 and 16:

10. Events - Finding Correct Event (Menu Item) to File a Document in ECF

- 11. Fees - Document Filed in Error
- 21. Forms - Ensuring You Use the Current Version of a Required LBF
- 31. PDF - Combining PDF's into One Document
- 33. PDF - ECF Error Message "Document contains code . . . can't be accepted"
- 34. PDF - File is Too Large to Upload or Upload is Very Slow
- 35. PDF - Print versus Publish

**Award of Merit**

Congratulations to Dick Slottee , who received the Section's William N. Stiles Award of Merit at the Section's Annual Meeting/CLE. The Award of Merit plaque now hangs on the wall outside Courtroom #3 on the 8th floor at the Bankruptcy Court in Portland.

**Message from Clerks Office**

Please **do not modify** the fixed text in a local bankruptcy form (LBRs 1001.1.F. and G.)! If adequate room does not exist in any area, attachment pages may be added to the end of the form for inclusion of essential text.

**Debtor-Creditor Section Website**

An archive of these court updates is maintained on the Debtor-Creditor Section website at <http://osb-dc.org/orb.htm>.