

The date is Wednesday, January 12, in the year 2000. This is Jerry McLean. I am interviewing Mrs. Peggy B. Deans and we are talking about bankruptcy.

Dr. McLean: Good afternoon, Mrs. Deans.

Mrs. Deans: Hello.

Dr. McLean: Would you tell us some of your recollections of the early years.

Mrs. Deans: Okay. My first association with the Bankruptcy Court was when I began employment with Judge Moore, back in those days known as the Bankruptcy Referee, in 1970, when I was employed in his law office. I worked there for two years, then I left and stayed home for a couple years with my young son. I went back to work in the law office in November, 1974. Then on July 5, 1975, I transferred over entirely to the bankruptcy office, rather than being a legal secretary in the law office. I changed jobs and went to work for the government and for Judge Moore. I have, of course, been with the court since that time.

At the time I was working with Judge Moore in 1970, his office was located at 309 Green Street, in Wilson. He had one side of the building and J. Charles Anthony, who was a CPA, in Wilson, had the other side of the building. So we were in 309-A which had 5 or 6 offices, and the other side was side B. We stayed in that situation until 1981 when the bankruptcy office grew to the point where we had to have more space. Mr. Anthony moved out into the building at 307 Green Street, which was a renovated home. We expanded over into 309-B Green Street, so at that point in time, we occupied the entire building.

In 1976, Judge Moore became full-time bankruptcy judge and was no longer in the private practice of law. In January, 1983, the office had grown to the extent that we had filled the 309 Green Street building completely. Judge Moore owned a two-story house next door at 311 Green Street, and we convinced him to lease it to us to move over and expand into that building. We first occupied the downstairs. There were residents living upstairs. That worked okay until later in 1983, in November, the office was still growing because of an increase in bankruptcy filings, and we moved into the upstairs. So, we had the upstairs and downstairs in 311 Green Street and both sides of the building at 309 Green Street.

In September, 1986, just some three years later, the clerk's office was still growing with the addition of staff because of the increase in bankruptcy filings, the court arranged to lease a building at 216 West Nash Street, which used to be the BB&T Travel Department, it was Merrill

Lynch for while. We leased that building and moved the entire bankruptcy clerk's office over there. Judge Moore and his staff, his chambers, remained at 309 Green Street with a small hearing room.

During the time after 1986, the court was able to arrange for a lease-construct facility here at 1760 Parkwood Boulevard. In November, 1988, the entire bankruptcy court, including the judge's chambers, moved into 1760 Parkwood Boulevard which we presently occupy.

Dr. McLean: What size staff did you have when you first joined Judge Moore?

Mrs. Deans: When I first started to work with Judge Moore in 1970 in the law office, the bankruptcy staff consisted of the bankruptcy judge and one part-time clerical position. I am not sure at what time that position became full-time. When I returned to work with Judge Moore in 1974, his bankruptcy staff had grown to three full-time permanent clerical positions. In July, 1975, I was added to that staff making it a total of 4 clerical assistants. Then in 1979, when the court became a separate structure, there were 9 members of the clerk's staff employed.

Dr. McLean: That's full-time members?

Mrs. Deans: Full-time.

Dr. McLean: That's nine members plus the clerk?

Mrs. Deans: That includes the clerk. Any figures that I give you will always include the clerk in those figures.

Dr. McLean: I believe you said when you started, the caseload was fairly small?

Mrs. Deans: As I understand it, when Judge Moore received the cases that were transferred to him from the former referee or former commissioner, whatever the title was at that time, there were maybe, I don't know, maybe a hundred cases or less transferred to him.

Dr. McLean: That's 100 cases per year?

Mrs. Deans: That was a pending caseload. I am sure it was much less than that, but I will just say 100 to get us moving forward. There were probably 10 or 11 cases or less coming in per month.

Dr. McLean: When you say, "When he took it over", are we talking about 1960 or 1970?

Mrs. Deans: When he took it over in 1960, he had 100 cases or less transferred to him that were pending. Then when I came in 1970, there were probably 10 cases per month being filed at that time.

Dr. McLean: These cases would have been from the same basic size of the district?

Mrs. Deans: The size of the district has not changed since we started.

Dr. McLean: Then, if we leap ahead 30 years, from 1970 to 2000, that caseload has changed to where today it would be about what?

Mrs. Deans: In 1999, we had 10233 cases filed in this district.

Dr. McLean: How do you account for the terrific increases?

Mrs. Deans: That's a good question. People are always wanting to know what accounts for increases or decreases in filings.

Back in 1960 and 1970, you have to consider what the credit card business was back then - probably wasn't in existence at that time. We attribute a lot of the increase in filings to the growth in the credit industry at that time, promotions for credit cards to people who are unable to manage their resources. Growth in population in this area, a shift in the type of businesses that are being developed - now we are dealing with technology. A lot of the textile mills phased out and went out of business and those are considered factors. Another factor is with the good communications and televisions broadcasting and all we have in the year 2000 and the latter part of the 20th century, we had a lot of knowledge being made available to people about the availability of the relief that is available through bankruptcy. With a change in attitude toward bankruptcy, the stigma that used to be attached to failure or to bankruptcy is no longer there. People may feel more inclined to take that sort of relief rather than the strong desire to repay their obligations. We have always lagged behind the nation a little with the number of filings simply because of us being in the "Bible Belt" where people will exhaust every opportunity or every resource available to them to be able to repay their debts before they seek this form of relief.

Another thing that we can attribute it to is the fact that the court has taken a very active role in educating the bar through its local seminars, bankruptcy practice and relief that is available through the bankruptcy law and has developed a very active bankruptcy bar - maybe a pro-active bankruptcy bar in that they are now advertising to provide relief to people who may encounter financial difficulties. Of course, we have had various downturns in the economy from time to time. It hits various sectors such

as the resort industry on the coast. It makes its rounds every so often. One area will be affected, perhaps the northeast or southeast part of the coast with the hurricane damage and tourism being affected by that. We have had land development companies around the coast that go through a bad economy periodically. A number of factors affect filings and it can not be attributed to a single factor.

As far as filings, the entire state probably falls within ranking 68th out of the 90 courts in the country as far as the filings per 1,000 population. We have 3.7 petitions per 1,000 population. The national median is 4.8, so it makes it us lower than the national. In 1996, we were had 2.8.

Today, to process those 10,233 cases, we have 42 people on staff, including the clerk. We have a divisional office that was opened in 1992 in Raleigh. There are 10 staff members in Raleigh and 32 in Wilson. This does not include the judge or judge's staff. There are two judges with two staff members each, one judge in Wilson and one in Raleigh.

Dr. McLean: What's the biggest change you are looking for in the next 5 years?

Mrs. Deans: Biggest change? You mean in the operations of the court? Electronic filing.

Dr. McLean: That has impacted terrifically on you within what, the last 3 years?

Mrs. Deans: Automation has in the last five-six years, the court started a real dedicated move toward automaton in the late 1980s. We were automated with our case management program and we had a dial-in system for anyone who subscribed could dial in and look at our case management system, monitor the progress of the cases in which they had an interest - to see what cases had been filed, look at the docket sheet or court document on that record. Every document that comes into the court is entered onto a register and given a number. Everything that is filed in that case is given a document number and it is placed in the file folder in chronological order.

Dr. McLean: Is that thing you showed me last time that is based in Louisiana.

Mrs. Deans: No, that was the early stages of the automation effort before. Now instead of a dial-in system, we have a web based access program where people can access court records, cases and view the record in the case as well as see the documents that have been filed in this case.

Dr. McLean: And you say anyone can do that now?

Mrs. Deans: Currently anyone can.

Dr. McLean: But you are expecting that to change?

Mrs. Deans: There is going to be a fee attached to it. The Judicial Conference has prescribed a fee of 7 cents per page. We are attempting to put in place a billing program that will capture that correctly. We had a charge for the dial in program because the fee was based on the time used - 60 cents per minute. Now it is going to be based on pages viewed and based on a certain number of lines per page.

Dr. McLean: So if I wanted to read it now, I could read it all I wanted to without charge?

Mrs. Deans: You could view anything you wanted to. You can see who has filed, you can review their petition with all of its schedules and statement of affairs. To have access with it in the future, you will register with the Pacer Billing Center and agree to pay the necessary fee. Anyone who wants to subscribe and pay the fee may use the program. Certain information will be available without having to register such as court calendars, statistics, court schedules, notices of sale, locations of holding court, local rules, procedural manuals and guides we make available to the public to improve administration. The fee will be strictly for reviewing case management information.

Dr. McLean: There is a lot of difference now than when you first started keeping everything in print?

Mrs. Deans: Very much.

Dr. McLean: You point about it being so open - so revealing - can work both ways can't it?

Mrs. Deans: Yes.

Dr. McLean: Does the individual who files know that this becomes public information, I wonder about that?

Mrs. Deans: The bar has been informed and there is a disclaimer on our web site that tells them if you file it, it will be available on the Internet. The only documents that would not be shown would be some document that was under seal by court order.

The electronic filing will probably be in place by the year 2003, when the attorney will sit at his desk in his office and have access to our database to enter the information in our system. Of example, if an attorney wanted to file a motion to obtain relief from the automatic stay, he or she would

make the docket entry, transfer the file from his or her computer to our computer and that document would be filed without any invention by court personnel. Fees will be assessed by using electronic funds transfers like an ATM card or other means.

We are also involved in electronic noticing.

Dr. McLean: What is that?

Mrs. Deans: When I first started with the bankruptcy court, giving notice to creditors was a very big deal. When a bankruptcy petition is filed, that debtor lists all of the people and companies including names and addresses that he or she owes money to. In the past, the court has had to prepare notices that were mailed to those creditors, perhaps several notices had to be sent in each case at different times. We had to type the envelopes for the notices. Then we would create a stencil and run off the notices on a mimeograph machine - then we would fold, stuff, seal and mail those notices to the creditors. Then as time progressed, we were able to use the 3 page carbon set of labels. We would type the addresses on this carbon set, use one set for the first notice and save the two sets for subsequent notices that had to be mailed in each case. It was very time consuming and a messy process.

As technology improved, we were able to prepare the labels by using a plain paper copier, typing a master list or matrix on a plain piece of paper and then photocopy those addresses onto pre-gummed labels which we would then peel and stick on the mailing envelopes.

As time progressed, we had a local rule of court requiring attorneys to submit the mailing matrix with the petition, after certifying its accuracy as to the information contained in the petition. The next improvement was the local rule which required the matrix to be submitted on diskette or sent to us by electronic mail. That allows us to upload the addresses into our system.

We have moved from preparing, folding and stuffing the notices by hand to having them done through a contract noticing service. They are now working on a project to transmit the notices electronically either by e-mail or fax rather than by paper notices.

Probably in the near future, people who have claims against bankruptcy estates will be able to file the claim on-line without having to submit a formal paper proof of claim.

A side benefit of using the Bankruptcy Noticing Center, when the notices are generated, they create a certain text file with the date, the name of the

document being sent, and case number all necessary information that is tied to each one of those entries, this information is returned to us once the notices have been mailed. We have a program that takes that data file and uploads that information into our system and automatically docketed all of the entries that court staff had to enter manually in the past. The paper notices are then sent to us. Sometime within the next 12 to 24 months, they will no longer send the paper notices, they will send the image of the notice which will be uploaded into the court's database. No paper will be returned to the court. The court will then be moving more to electronic record instead of paper records.

Dr. McLean: What is the image that you talk about?

Mrs. Deans: A picture of the document such as notice of sale, notice of discharge, etc.

Dr. McLean: So at this point, you are still keeping the paper file.

Mrs. Deans: I must keep the paper file as well as the electronic file. The judges have assured us that if we do not receive the paper, we do not have to create it. However, if we get the paper, we cannot destroy it. The plan is to eliminate getting the paper in the first place.

Every three months, we ship probably 25 to 40 boxes of closed records to the Federal Records Center in Atlanta for retention. Now, we have received notification that the FRC will begin billing the courts for retention of these records. There is a decided effort underway to eliminate the need to have paper records.

Dr. McLean: It would be something just to think about the difference between the day you would spend in the office in 1979 to today.

Mrs. Deans: Wayburn Mills, who is the Chief Deputy Clerk, the first week she began working, her sole job was typing envelopes. That's all she did for the entire week, because we were behind in getting notices out. Today, she is working on revision of our personnel evaluation system, developing interview questions and working on a program for hiring potential new staff members as we continue to grow.

Dr. McLean: That process has become much more complicated also, hasn't it?

Mrs. Deans: Very much so.

Dr. McLean: And much more systematized than it would have been when you and Judge Moore were sitting down together back in 1980?

Mrs. Deans: Yes, now we have a team interview process - things are a lot different.

Dr. McLean: Who is mandating the systematic evaluation of personnel? Is this something that has grown within the bankruptcy court?

Mrs. Deans: The changes in the laws have made it necessary in order to comply with EEO guidelines, basic decency, make sure you are doing the right thing, the personal liability that is in place that you must deal with in hiring staff, plus you need to make sure you get the good qualified people. A sense of responsibility for the people you already employ to help them direct their career paths. Much of the litigation, fairness, civil rights, perhaps, tendency to sue, the "sue frenzy", you just want to do the best you can. The good management practices that people are interested in - to be a better manager, fair manager or supervisor.

Dr. McLean: This is a federal bankruptcy court. What association do you have with the State of North Carolina?

Mrs. Deans: There is no connection in the conduct of our daily business with the state courts. Certain provisions of the state statutes apply to bankruptcy cases such as the exemption statute or judgment remedies.

Dr. McLean: I guess what I was asking about the evaluation - this is something that your office creates upon based upon these things you were telling me about or is it something that you would copy from another court?

Mrs. Deans: There is a good exchange of forms and information from other courts and the national training that we receive such as that provided by the Federal Judicial Center and the Administrative Office of the United States Courts. We have various seminars and workshops on programs such as personnel issues, Equal Employment Opportunity, Employee Dispute Resolution, that keep us informed on changes in the law and more aware of what is going on.

Dr. McLean: Basically, this is something that has grown up through this new awareness, this network you are talking about?

Mrs. Deans: Yes, exactly. They will be our forms. We will have developed them based on our needs. What may work here may not work in the Central District of California, and vice versa. So we adapt the forms and procedures based on our needs and our specifications staying within the framework of the statutes and case law and being aware of pitfalls that others have experienced.

Dr. McLean: Do you have an individual connected with this office to basically handle

personnel applications, evaluations, etc., or is that something that is throughout the office.

Mrs. Deans: It is throughout. We have supervisors who prepare the immediate evaluation and recommendations for promotions or personnel actions. I am ultimately responsible for all personnel decisions. We have just completed the employee dispute resolution plan as well as a grievance policy which we have developed.

Dr. McLean: It is just unreal the pace of change.

Mrs. Deans: Exactly! I have been here nearly 25 years and there has been so much progress. It is almost inconceivable to think that we could have made so much advancement. It is even more exciting to see where we are going. I attended a recent national bankruptcy clerks' workshop in Baltimore. We were posed with a project to justify the existence of the clerks' offices. The tendency is to outsource so many of the services we provide, such as noticing. Outsourcing is today's buzzword for contracting out services that can be done more efficiently and more economically through a contracting service than in the court.

It made us very much aware of where the courts would be if they were not innovative. If you cannot provide a better service than an independent contractor, then you need to outsource process to serve the court and the public. This is especially true given the current judiciary budget situation.

There has been a definite change in philosophy in this court since we first began. When I first came with the court, the attitude was that the staff was here to meet the needs of the court - the judges - to make sure the cases were processed timely. Now, we are much more customer service oriented - making information available to the public to do their own research with a minimum of difficulty and expense. We now do customer service surveys asking how are we doing. We have a customer survey form on our web page for people to complete and submit by e-mail. The whole attitude and focus of the court has changed dramatically since the early days.