

U.S. BANKRUPTCY COURT

ON THE DOCKET

October, November,
December 2008

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INNER WORKINGS: NEWS AND ADVICE

BY SUSAN M. THURSTON, CLERK OF COURT

Welcome to the last bankruptcy newsletter for calendar year 2008. Beginning in 2009, we have decided to adjust our publication schedule to produce *On the Docket* biannually – in June and December -- rather than quarterly, in order to more effectively combine the court's news and announcements into a concentrated newsletter.

Since our fall publication, Judge Votolato has welcomed a second law clerk into chambers – Alex Strom, a bankruptcy attorney formerly with Edwards, Angell, Palmer and Dodge. Alex brings a wealth of bankruptcy experience to the position, holding an LLM in Bankruptcy from St. John's University School of Law. We encourage our bankruptcy practitioners to introduce themselves to Alex when appearing in the courtroom or otherwise when visiting the court.

As can be imagined, the last several months have been extremely busy at the court,

due to the steady increase in case filings, as well as the substantial number of local rule and form changes that went into effect on December 1st. An extensive number of federal rule changes took effect December 1st, which for the most part were already in place as interim rules (by general order) to implement the new BAPCPA provisions. It is recommended that practitioners visit the US Courts federal rulemaking page for a detailed list and explanation of these rule changes. See <http://www.uscourts.gov/rules/supct0408.html> (A list of the form changes may be found on pages 2-3 of this newsletter.)

Two final items to mention to our readers – the Court has recently installed new courtroom doors with larger viewing windows and much quieter hardware to reduce the noise level upon entering or exiting the courtroom. Also, we have posted to the Court's website a new eight part Bankruptcy Basics video that goes into detail as to the various aspects of the

bankruptcy process including:

- Introduction
- Types of Bankruptcy
- Limits of Bankruptcy
- Filing for Bankruptcy
- Creditors' Meeting
- Court Hearings
- This Discharge
- Legal Assistance

The video is available under the Self Help section of our website and is an excellent educational tool for anyone interested in the bankruptcy process.



Happy New Year!

Numerous Director and Official forms changes also took effect on December 1. Copies of the revised forms, instructions and committee notes can be viewed at <http://www.uscourts.gov/bankform/index.html>
A brief list of these changes is provided below:

Director Form Changes:

B 201 Notice to Individual Consumer Debtor (12/08)

Director's Procedural Form B 201 has been amended to advise debtors that Rule 4002 requires the debtor to notify the court of any changes in the debtor's address. As revised, Form B 201 also states that joint debtors who list the same mailing address on the bankruptcy petition, will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope.

B 283 Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q) (12/08)

Director's Procedural Form B 283 is new. Form B 283 may be used by debtors to certify that they have complied with two of the requirements set out in section 1328(a) of the Bankruptcy Code for a discharge in chapter 13.

Official Form Changes:

B 1 Exhibit D - Individual Debtor's Statement of Compliance with Credit Counseling Requirement (12/08)

B 8 Chapter 7 Individual Debtor's Statement of Intention (12/08)

B 9F Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors and Deadlines – Corporation/Partnership case (12/08)

The form was revised to delete the debtor's phone number in conformity with the other versions of Official Form 9.

B 10 Proof of Claim (12/08)

B 23 Debtor's Certification of Completion of Post-petition Instructional Course Concerning Financial Management (12/08)

The paragraph describing Filing Deadlines at the bottom of the form was revised to include a reference to § 1141(d)(5)(B).



Winter is here!



New Official Forms:

B 25A Plan of Reorganization in Small Business Case under Chapter 11 (12/08)
B 25B Disclosure Statement in Small Business Case under Chapter 11 (12/08)
B 25C Small Business Monthly Operating Report (12/08)
B 26 Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest (12/08)

Lastly, the Rhode Island Bankruptcy Court made several local rule and forms changes, also effective December 1, 2008. Please visit the Court's website at www.rib.uscourts.gov for a complete description of these changes, which are itemized below:

New and amended Local Rules 1005-1, 1017-2, 2002-2, 2017-1, 3015-1, 3015-2, 3022-1, 4001-1,
New and amended Local Forms N.1, P.3, P.4, R, W
New and amended Appendices I, II, IV, VI

Bankruptcy practitioners are advised to pay particular attention to the following local rule and form changes:

- (1) **Local Forms P.3 and P.4** have been abolished and **R.I. Local Rule 5005-4** (Electronic Filing) has been amended to require that the electronic filer retain original documents containing original signatures for two years after the case is closed.
- (2) **R.I. Local Rule 3015-1** (Chapter 13 Plan) - Sets forth new service requirements for Motions to Modify Secured Claims.
- (3) **R.I. Local Rule 4001-1** (Relief from Automatic Stay) now requires the filing of a **new R.I. Local Form R** with all motions for relief from stay in cases filed by individuals where the debtor has not indicated on their Individual Statement of Intention an intent to surrender the subject property.



New rules and forms!

EXPANDED SUBJECT LINE IN NOTICE OF ELECTRONIC FILING (NEF) BY CRAIG BALME, INFORMATION SYSTEMS MANAGER

Recently a modification to the CM/ECF application was applied that gives users more information in the NEF subject line. Many users may have noticed this expanded information already. The reason for the change was to provide users more control over how their email client handles incoming mail. The goal is to help sort, organize, and route NEF's in the most efficient and effective manner.

Here is an example of the expanded NEF subject line -

1:08-bk-13962 Ch7 Peter J. Somename and MaryAnn Somename - Motion to

Amend Schedules.

Looking at the expanded subject line, the reader can immediately see how rules can be applied based on chapter, case number, short title or event docket text.

Being able to apply rules is helpful in many situations. For example, if the user only wants to see NEF's for chapter 11 cases, an email rule to filter out anything with a 'Ch11' can be created so that their NEF's are sent to a folder called 'Chapter 11' for review. Another situation could be if multiple people are working on different cases, but getting the NEF's from one email. Users could setup rules in their email to forward the NEF's

based on chapter, case, or case title to other users mail accounts. Click the 'Help' feature in the email client for step by step instructions on how to create rules that suit specific needs.

We hope this expanded functionality proves useful. If further information is required, please contact me directly at (401) 626-3140.



BEHIND THE SCENES

BY LINDA S., ADMINISTRATIVE PROJECT COORDINATOR

As you may remember from the last issue of *On The Docket*, two new staff members have joined the court family recently- Public Information Specialist Katie Flaherty, and Case Manager Pamela Ricciarelli,. In addition, Jennifer Morro also joined our staff as a Case Manager this past May. Why are we telling you this? To let you know what is going on "behind the scenes" with these

three new staff members.

And what is going on is...*training!*

Many of you may have noticed an extra person in the courtroom lately. That would be Jennifer Morro, who is training to be back-up courtroom deputy to Holly D'Agostino. Katie has been busy learning all there is in assisting the public and the bar.

In addition to learning Chapter 7/13 case management duties, Pam, along with case

manager Carolyn Sweeney, are both being trained as Chapter 11 case managers. As of January 1, 2009, Chapter 11 cases will now be handled by Carolyn, Jennifer Davis and Pam. It is therefore important to check the case assignment list for the Ch. 11 case manager who can best assist you!

What's new?

IMPORTANT ECF REMINDERS BY JODY VENUTI, QUALITY ASSURANCE SPECIALIST

If a debtor is seeking to amend schedules in a closed bankruptcy case, a MOTION TO REOPEN, along with the applicable filing fee, must be filed first. After the motion is granted and the case is reopened, the debtor must seek court permission to amend schedules and statements. *See* Fed.R. Bankr.P. 1009(a). Do not use the event “Amended Schedules”! Instead file your motion request under “Bankruptcy Events/Motions/Amend Schedules - Reopened Cases

Only” or “Amend Creditors - Reopened Cases Only”, whichever applies.

The event “Amended Schedules” located in the “Other” Category can only be used in cases that have not yet closed.



EMAIL, EMAIL, EMAIL!!!!

There is no such thing as having

too many email addresses in your ECF account. Feel free to add as many as you like. Having backup addresses will provide a safeguard against lost notifications should one of your accounts fail. Another advantage is that all email accounts will get the FREE LOOK!

Also, please remember to update your account and email address if you change/add email service providers or take on additional staff.

Feel free to call if you have any questions about your account. (626-3145)

Bankruptcy Noticing Center Operational Improvements

Starting February 23, 2009, a new BNC feature will eliminate the mailing of duplicate notices to joint debtors at the same address by sending a single copy of each notice in a jointly-addressed envelope. Currently, in joint cases, which account for approximately 30 percent of cases nationally, the judiciary incurs the cost of two notices, two envelopes, and two postage fees for identical notices going to the same address.

Sending a jointly-addressed notice to joint debtors at the same address is an efficient administrative solu-

tion anticipated to provide savings of over one-half million dollars a year. Additionally, this feature provides better service to joint debtors at the same address by reducing the number of duplicate notices they must handle. The envelope/wrapper will include both names of the joint debtors, and the certificate of notice will include a single entry indicating that both joint debtors received notice via first class mail.

In conjunction with this new feature, Director’s Form B201, “Notice to Consumer Debtors(s) under § 342(b) of the Bankruptcy Code,” has been amended, effective December 1, 2008.

The amended Form B201 advises a debtor to update the court with any changes in the debtor’s address, pursuant to Bankruptcy Rule 4002. Moreover, it states that joint debtors at the same address will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope, unless a joint debtor files a statement with the court requesting that each spouse receive a separate copy of all notices.



ATTORNEY GUIDANCE RE: CH. 7 MEANS TEST WITH EXCLUSION FOR RESERVISTS AND NATIONAL GUARD MEMBERS BY GAIL KELLEHER, CHIEF DEPUTY CLERK

On October 20, 2008, the President signed the National Guard and Reservists Debt Relief Act of 2008, Pub. L. No. 110-438. The Act provides a temporary exclusion from the bankruptcy means test for Reservists and members of the National Guard called for no less than 90 days to active duty or homeland defense activity following September 11, 2001. The amendment to section 707(b)(2)(D) of the Bankruptcy Code became effective on December 19, 2008 (60 days after enactment.) The amendment applies only to cases commenced in the three-year period beginning on the effective date of the Act.

Completing & Filing Means Test with Exclusion

Note:

- In Joint Cases where neither debtor requests an exclusion, only one Means Test must be filed.
- In Joint Cases where either or both debtors request an exclusion, separate Means Tests must be filed for each debtor.

1. Because the exclusion period applies only for a defined period of time, it may expire during the course of the Chapter 7 case. For that reason, a new check box is added to the top of Form B22A

(12/08) that states the ‘presumption is temporarily inapplicable.’ A debtor who is entitled to claim the exclusion at the commencement of the Chapter 7 case may check this box.

In a joint case in which the exclusion in part 1C is claimed by either or both filers, each joint filer must complete and file a separate Form B22A statement. If only one joint debtor qualifies for the exclusion in part 1C, the other joint debtor must complete a separate form in full.

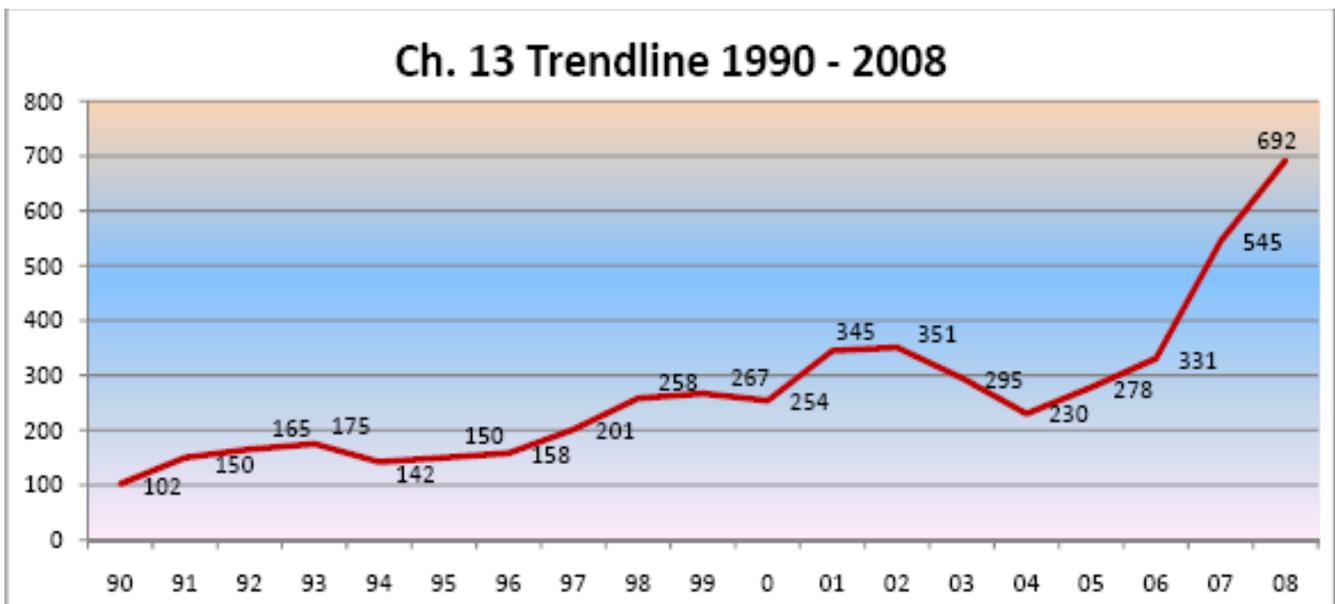
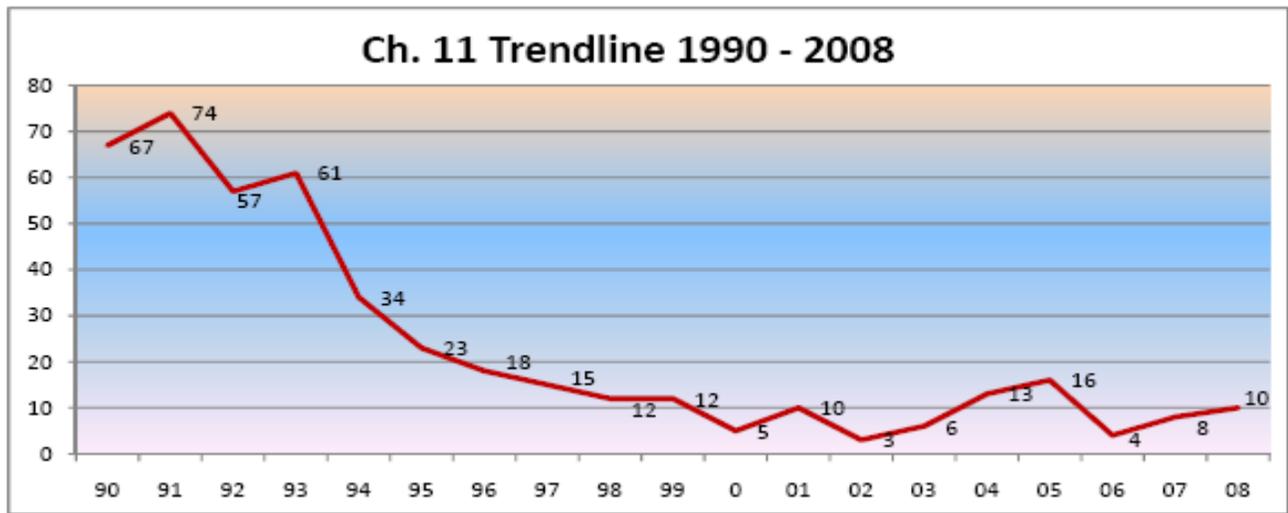
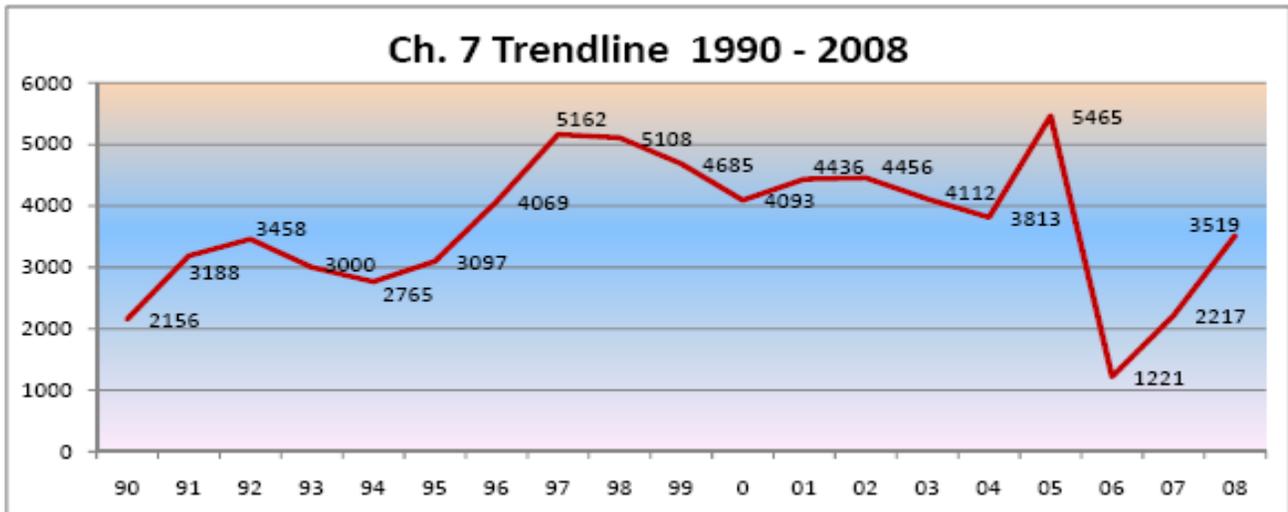
Debtors claiming the exclusion must complete all check boxes and dates in part 1C, but are not required to complete the remaining parts of the form for so long as the exclusion remains applicable. Failure to complete all information in part 1C will result in the Means Test being considered defective.

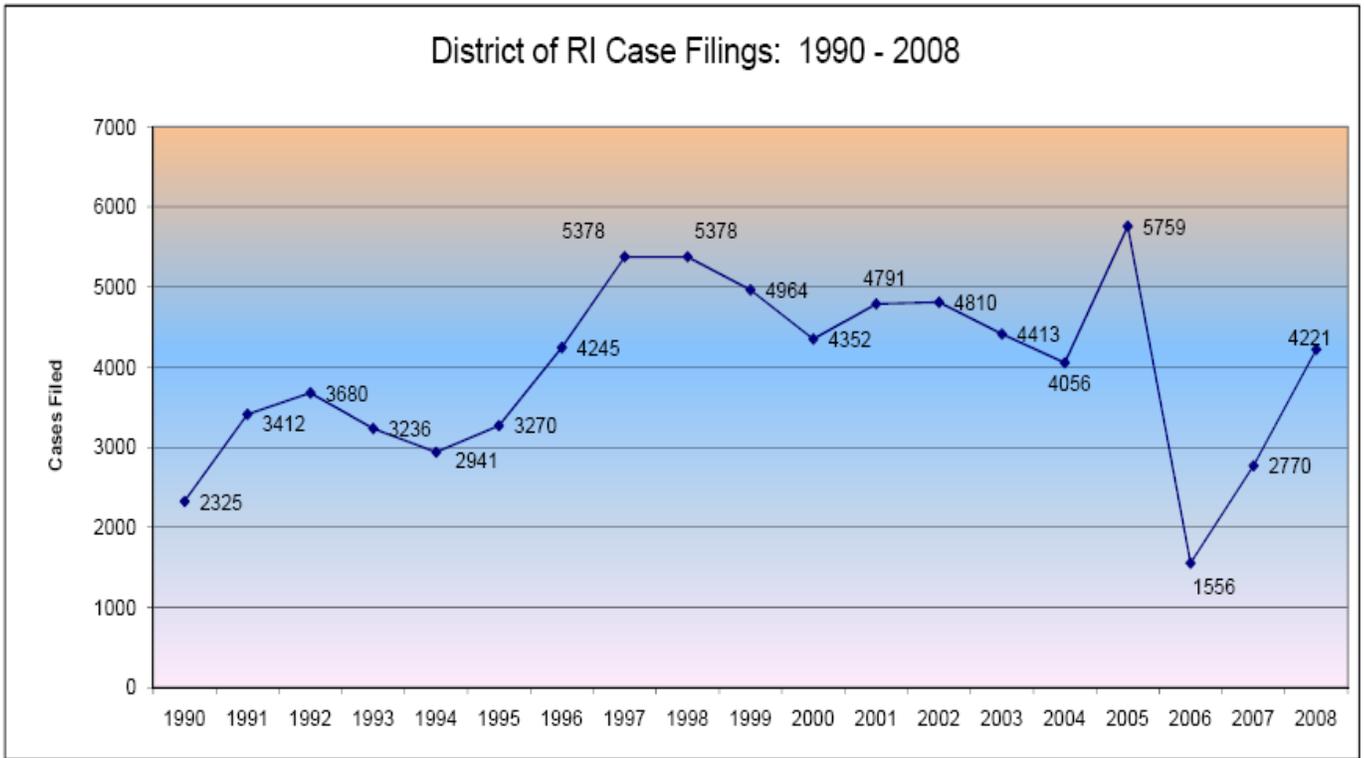
2. Docket a new text-only event called “**Statement of Debtor’s Temporary Exclusion from Means Test**” (Category: Other). This new event will set a flag (MEANSTEMPEX) indicating that the debtor is temporarily excluded from the means test. If the debtor is no longer on active duty, the event sets the date on which the temporary exclusion ends.

Miscellaneous

1. If the debtor is released from active duty later in the case, docket the event “**Released from Active Duty**” (Category: Other). The event will set the date on which the temporary exclusion ends.
2. Within 14 days of the expiration of the exclusion period, the debtor may be required to complete the remaining parts of the Means Test. The court will issue a Notice Requiring Filing of Means Test. Failure to File the Means Test will result in the automatic dismissal of the bankruptcy case without further notice, with a 180-day bar to re-filing.







Notice of Closing

The U.S. Bankruptcy Court will be closed on the following days:

- Monday, January 19th - Martin Luther King Jr.**
- Monday, February 16th - President's Day**
- Monday, May 25th - Memorial Day**