

United States Bankruptcy Court, District of Rhode Island

ON THE DOCKET

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Inner Workings: News and Advice

by Susan M. Thurston, Clerk of Court

Welcome to the first 2013 publication of our court newsletter, *On the Docket*. As most of you know, we publish this newsletter three times a year and in it we share news of all types of changes happening at the court -- in procedure, personnel and technology -- as well as upcoming events and tips and traps to help practitioners stay abreast of federal and local bankruptcy developments. As usual, this edition is no different with much information to impart.

It may be hard to believe, but it was really only a few months ago, on November 9, 2012, that Chief Judge Sandra Lynch of the First Circuit Court of Appeals graciously conducted the formal investiture ceremony for our new Bankruptcy Judge Diane Finkle. Seated on the bench with Chief Judge Lynch were fellow Court of Appeals Judges Bruce Selya and O. Rogeriee Thompson as well as Chief District Court Judge Mary Lisi. This is the first such ceremony ever held in Rhode Island for the Bankruptcy Court and the beautiful event took place in Chief Judge Lisi's magnificent ceremonial courtroom. RI Superior Court Associate Justice Michael Silverstein, as well as Judge Finkle's former partner, Attorney Allan M. Shine, were among the featured speakers while the Judge's husband, attorney Michael Ursillo, their two daughters, Lyndsey and Alyssa, and her mother participated in the formal robing portion of the ceremony. All

bankruptcy court staff were able to attend the event thanks to the office coverage provided by the district court's clerk's office staff. We are so appreciative to everyone who helped make this event a historic and memorable one for all of us in the bankruptcy court family.

Another first event sponsored by the Bankruptcy Court last year was the Open Forum session Judge Finkle conducted on December 13, 2012 with the Bankruptcy Bar to receive feedback and suggestions for improving bankruptcy court processes and procedures. We had a tremendous turnout from the Bar and received numerous excellent recommendations for improving efficiencies in court practices as well as with the Court's loss mitigation program. These comments are being evaluated by the court and incorporated where appropriate into future local rule, form or practice changes.

In addition, Judge Finkle re-constituted the Attorney Advisory Committee (AAC) and the new group held its first meeting on January 24, 2013. The AAC members include attorneys Patricia Antonelli, John Boyajian, Tom Carlotto, Stacy Ferrara, Wayne George, Lisa Geremia, Janet Goldman, Kevin Heitke, Chris Lefebvre, Elizabeth Lonardo, Charlie Pisaturo, Sandra Nicholls, Gary Donahue and Russell Raskin, as well as chambers and court staff. The list of members, meeting dates and meeting minutes are posted to the Attorney

(continued on page 2)

Inner Workings

(continued from page 1)

Advisory Committee page of our website (under Attorneys) for everyone to review. If you are a bankruptcy practitioner and have suggestions for the Court, please feel free to send your comments to me directly or to any one of the attorney members of the AAC. During the January meeting, two subcommittees were formed to focus on proposing changes to the Court's local rules and forms as well as changes to the loss mitigation program. The members of the Local Rules subcommittee include: Lisa Geremia, Patty Antonelli, Tom Carlotto, Janet Goldman, Chris Lefebvre, Gary Donahue/Sandra Nicholls, Stacy Ferrara, Jimmy Dahu and Susan Thurston. The members of the Loss Mitigation subcommittee include: Judge Finkle, Jeffrey Dana, Kevin Heitke, Kathryn Fyans, Russell Raskin, Elizabeth Lonardo, Jordan Baumer and Susan Thurston. Please feel free to forward any suggestions you have for either of these subcommittees to any one of its members.

In the coming months, but for sure by May 1, the Court will be upgrading ECF to Release 5.1, which includes a new \$25.00 transfer of claim fee which goes into effect on 5/1/13. Other enhancements in this release are discussed in an article on page 8, *infra*.

Lastly, I wanted to publicize the January 1 launch of our updated Bankruptcy Court website which uses a national template for its design and format. The national template is an effort by the judiciary to have court websites share the same look and feel in order to make it easier for practitioners to locate information such as local rules, calendars, court opinions, etc. in multiple districts. As with any revision however, you may find that we relocated or eliminated some information that you really liked. If you have feedback, we would love to hear it – please email your suggestions to the Help Desk link at rib_helpdesk@rib.uscourts.gov located under Court Info/Telephone Directory and Email Listings.

Recent Court Opinions

by Jimmy Dahu, Law Clerk

Here is a short digest of some noteworthy opinions from the Court. As always, the full text of Court opinions is available on our website at <http://www.rib.uscourts.gov/?q=judges-info/opinions>.

In re Cobb, No. 12-12848 (Jan. 24, 2013) (Chapter 13): Pursuant to Bankruptcy Code § 1325(b)(4)(A)(ii), the above-median debtor was required to propose a plan with a five year commitment period. The debtor's Chapter 13 plan proposed a five year commitment period and further proposed to pay unsecured creditors in full. The plan, however, proposed monthly plan payments substantially less than the debtor's monthly disposable income. The Chapter 13 trustee conceded that the Chapter 13 plan complied with § 1325(b)(1) but nevertheless objected under § 1325(a)(3), contending that the debtor had failed to show that the plan was proposed in good faith because the debtor could increase her monthly plan payments and pay creditors earlier than the five year commitment period. The Court held that, on the facts of the case before it with the sole basis for the Trustee's objection limited to the financial ability of the debtor to pay creditors in a shorter time period, the debtor proposed the plan in good faith given that the debtor was exercising a right granted under § 1325(b)(4)(A)(ii).

In re Corse, No. 10-13555 (Jan. 18, 2013) (Chapter 7): The Chapter 7 trustee moved under Bankruptcy Code § 363 to sell the debtor's one-fourth remainder interest in real property held in joint tenancy with non-debtors. The life estate tenant and two non-debtor holders of remainder interests objected, contending that (i) the debtor held only legal title, and not an equitable interest, in the real property, (ii) the debtor could disclaim her interest under Rhode Island law, (iii) the debtor could claim a homestead exemption with respect to her remainder interest, and (iv) the sale of the debtor's remainder interest would convert the joint tenancy into a tenancy in common and eliminate the right of survivorship afforded to the non-debtors. Concluding, among other reasons, that the debtor held both legal and equitable title in the remainder interest and did not and could not avail herself of the homestead exemption, the Court overruled the objection, and granted the Chapter 7 trustee's motion.

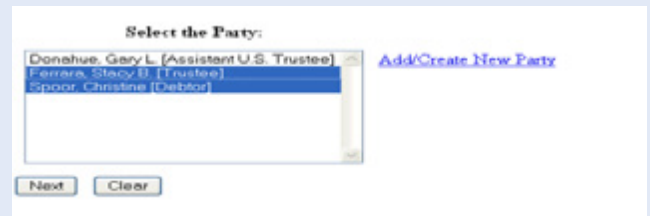
In re Webster, AP No. 11-01085 (January 14, 2013) (Chapter 7): The U.S. Trustee sought revocation of the debtors' discharge under Bankruptcy Code § 727(d)(1) and § 727(d)(2) where the debtors failed to inform the Chapter 7 Trustee of the debtor-husband's three pending personal

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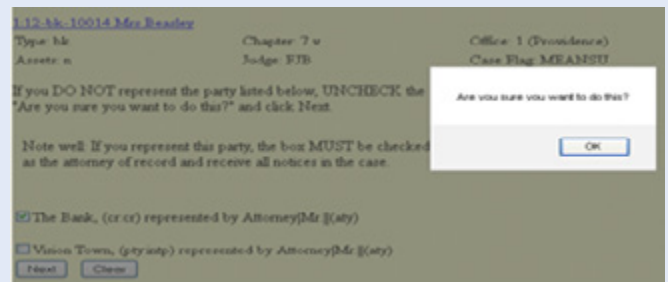
Tips and Traps

by Dina Fortes, Case Manager

- When filing loss mitigation status reports, always link to the ORIGINAL order granting loss mitigation, even if an order to show cause associated with the loss mitigation has been issued.
- Pursuant to Bankruptcy Rule 9037, pleadings on the docket must be redacted. This includes the last 4 digits of the social security number and individual tax identification number, the year of the individual's birth, if listed, the minor's initials, if listed, and the last four digits of the financial account number on the schedules or proofs of claim.
- Furthermore, a new procedure for non-redacted personal identifiers filed with the court went into effect on 1/10/2013. The court will immediately restrict access to any document that is not redacted appropriately. Attorneys will be notified by the case manager and have until 3 o'clock the following day to submit a redacted version of the document. This will be submitted via email to the helpdesk at rib_helpdesk@rib.uscourts.gov. A notice to redact will be entered on the docket, and if the filer does not comply an order to show cause will then be issued.
- Remember to always docket the event "Creditor List Upload (original list of creditors)" AFTER uploading the creditor list in CM/ECF. This event is located under ****bankruptcy>other>creditor list upload (original list of creditors)****.
- Always make sure your forms and schedules are up to date. Updated forms can be found on the courts website: www.rib.uscourts.gov, under Rules and Forms >All Forms.
- When a better address for a creditor is needed by the court, please be sure to use the debtor(s) Notice of Updated Address event. This event can be found under the other category>Debtor(s) Notice of Updated Address. Keep in mind that the pdf you attach MUST include the old or incorrect address as well as the updated address.
- How to choose the correct party filers when filing a joint document? When filing joint documents such as Loss Mitigation Status Reports, Motion to Approve Loan Modification, Joint Motions, and Discovery plans make sure to always select all parties in the "Select the party" box associated with the document. (See image below)



- The next screen will allow you to uncheck the party that you DO NOT represent. (See image below)

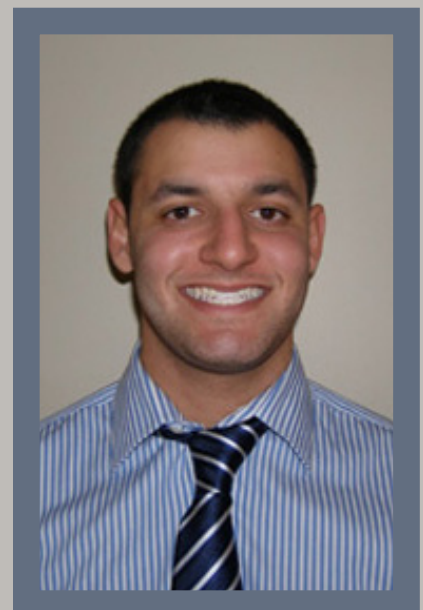


The U.S. Bankruptcy Court Welcomes New Intern

by Carolyn Sweeney, Case Manager

In September, the U.S. Bankruptcy Court welcomed a new intern, Devin Rainone, into the Clerk's Office. Devin is a sophomore at Johnson & Wales University. He is studying International Business with a concentration in Finance and Economics. During his internship with the Clerk's Office, Devin has assisted with the quality control of newly filed bankruptcy cases, conducted research concerning loss mitigation cases and has worked on various projects within the office. You may have noticed Devin observing court proceedings.

Please welcome Devin to the Bankruptcy Court!





Recent Court Opinions

(continued from page 2)

injury related claims in state court and the Trustee did not learn of the claims until after the debtors' discharge had entered. Despite the debtors' argument that they acted on the advice of counsel, and irrespective of the U.S. Trustee's acknowledgment that the debtors received poor legal counsel, the Court found that the debtors obtained their discharge through fraud by "knowingly and fraudulently ma[king] false oaths relating to material facts, which if known prior to the entry of the [debtors'] discharge, would have resulted in denial of their discharge under § 727(a)." The Court entered an order revoking the debtors' discharge under § 727(d)(1). The Court, however, concluded that the U.S. Trustee did not provide sufficient basis for revocation under §727(d)(2).

In re Krivitsky, 12-10382 (Dec. 17, 2012) (Chapter 13): The Court issued a decision and order granting the Chapter 13 Trustee's motion to convert the case to a Chapter 7 case pursuant to Bankruptcy Code § 1307(c) (11). The debtor failed to pay post-petition domestic support obligations to his former spouse and the Court found conversion of the case to be in the best interest of the debtor's creditors and the estate.

In re Dupont, 12-13301 (Dec. 12, 2012) (Chapter 13): In a case where the debtor had filed multiple bankruptcy cases, the Court issued a bench decision relating to the imposition of the automatic stay under Bankruptcy Code § 362(c)(4), finding the debtor's most recent filing to have been made in good faith due to a change in financial circumstances. The audio of the Court's bench decision is available on the docket.

In re Garcia, 12-13285 (Nov. 19, 2012) (Chapter 7): The Court issued a bench decision relating to the extension of the automatic stay under Bankruptcy Code § 362(c)(3) finding that the debtor, who had previously filed multiple bankruptcy cases, had filed his most recent case in good faith due to the particular facts before the Court. The audio of the Court's bench decision is available on the docket.

Java Is Coffee, Isn't It?

by Craig Balme, Manager - Information Systems

So, I bet you're wondering why we'd write about coffee in our newsletter? Well, the easy answer is Java is also the name of a programming language that runs on over 3 billion devices worldwide. These devices range from Smartphones, to SmartTV's. The java language operates through a small run-time environment on almost every PC in existence. This run-time (or JRE) is what allows certain programs from the internet (among other places) to run on your PC and provide different types of functionality.

Recently, hackers discovered flaws in the JRE Version 7, and have been using it to exploit browsers and hijack computers. The attack is usually initiated when a user browses to an infected website that loads specific software allowing the JRE to run. Once the code is executed, the attacker can compromise the user's computer. One of the biggest methods hackers are using is sending bogus emails requesting the user to follow a link to update their Java installation. **You should never, ever, follow links that are offering to update your software;** companies almost never send this type of email.

The best method to protect yourself at this point is to visit the Java website and ensure you have the latest version which, as of the date of this article, is Version 7, Update 11. This can be found at – <http://www.java.com>. If you are not comfortable upgrading/configuring/installing software, you should get the assistance of a qualified professional.

Overall, there are many options to keep yourself safe from hackers. Below is a list of a few of the more common things you should practice:

- Making sure your software/programs are up-to-date (ie. JRE)
- Operating system patches should be applied when they are released
- Running anti-virus software with up-to-date definitions
- Being able to identify bogus emails that try to trick you into clicking links.

The bottom line is that you must be proactive when dealing with security, and try to stay one step ahead of hackers who want to turn your PC into part of a **botnet!**

LOCAL RULE AMENDMENTS

by Amy Seale, Operations Manager

On January 28, 2013, the Rhode Island Bankruptcy Court adopted amendments to the following Local Rules. Below is a brief summary of each change, but practitioners are advised to obtain a complete copy of the amendments and familiarize themselves of the changes. The rules may be found on-line at www.rib.uscourts.gov.

Local Bankruptcy Rule 1005-1 Filing Papers – Requirements (Requires that any late pleading must be accompanied by a separate Motion to File Out of Time.)

Local Bankruptcy Rule 4003-2 Lien Avoidance (Sets out the contents of a motion to avoid lien pursuant to 11 U.S.C. Section 522 (f), other than one contained in a Chapter 13 plan and outlines new service requirements.)

Local Bankruptcy Rule 9013-3 Certificate of Service – Motions; Notice of Hearing (Outlines new service requirements.)

Increase in Bankruptcy Court Miscellaneous Fee Schedule

Item 20 of the Bankruptcy Court Miscellaneous Fee Schedule goes into effect on May 1, 2013 and requires a \$25 fee for the transfer of a claim in a bankruptcy case.

Keeping Your Data Safe

by Steve Stricklett, Automation Specialist

If your computer crashed today would you lose everything? Have you ever ran a backup on your computer? You can't predict when or if your computer will have issues but if you backup your files on a regular schedule you will limit the amount of data you could potentially lose. Take a minute and think about the importance of the data you have stored on your computer: the work files, pictures, music and videos, legal documents, etc. No matter how you look at it, backing up your data is important.

There is software that can automatically backup your computer files with little interaction on the end user. There are different variations of this setup but most have similar options. If you research "backup solutions" on the internet you will be saturated with options from large business solutions to the smaller home user backup options. These devices are made for easy setup and use. Backing up your computer on a weekly basis is probably the best for small businesses and home users but all situations are unique. The more the files change on your computer the more often you should be backing them up. Take your time to research the solution that best meets your needs.

Employees Keep on Giving...

by Pam Ricciarelli, Case Manager

Every November, our court staff traditionally collects food items to put together Thanksgiving Baskets to be donated to local families. Despite the recent government budget and staffing cuts throughout the bankruptcy court, employees continue to generously think of others during the holiday season. This year, the Clerk's office collected enough donations to prepare two large Thanksgiving Baskets complete with local supermarket gift cards to purchase turkeys. The baskets were delivered to two families in the Johnston and Providence areas through the assistance of community outreach programs.

In addition to the annual Thanksgiving food drive, our employees have a tradition of 'adopting-a-family' for Christmas. Through the assistance of our local parish programs' 'adopt-a-family', we can ensure a needy family receives the gifts on their wish list and also receives the funds allowing them to enjoy a bountiful Christmas dinner. The employees all joyfully take part in purchasing and wrapping the gifts for these families.

It creates a great sense of community and is a wonderful way to help others who are less fortunate. These families, without such assistance would not have the luxury of gifts on Christmas morning or a generous meal to share. It is with great pleasure that we can help in serving the needs of the community.

Combined Federal Campaign

by Kristen Batty, Human Resources Administrator

In 2012, employees of the US Bankruptcy Court, District of Rhode Island, showed their overwhelming support of the National Combined Federal Campaign (the CFC) by donating more than \$6,000 to many nonprofit agencies in Rhode Island and Nationally. The Combined Federal Campaign (CFC) is the only authorized solicitation of Federal employees (civilian, military and postal) in their workplace on behalf of approved charitable organizations. The Rhode Island and Southeastern Massachusetts CFC campaign raised a total of \$1,060,000.00. Congratulations to everyone.



Are You Password Savvy?

by Gail Kelleher, Deputy Clerk

Passwords are essential to protect computer data in both personal and professional environments. In fact, a password is sometimes described as a “key that opens the door” to information systems and the sensitive data stored within them. This article provides some suggestions for creating strong passwords and for easier password management.

We’ve all been guilty of using the name of our spouse or a favorite pet as a password. Why? Because it’s simple to remember of course! The problem is that it can be an easy guess for anyone who knows you or has access to your personal information¹. Sometimes passwords that you think matter the least actually matter the most. For example, you may think that your home email does not contain anything sensitive but if your home email is linked to your on-line banking and is compromised, a hacker could contact your bank and state that the password was forgotten. Your bank will then email your on-line banking password to the hacker via your email address. So how do you make a password that is hard to guess but easy to remember? Here are some suggestions:

- ◆ Use a familiar phrase, but use numbers in place of any words that sound like numbers
 - One = 1
 - To = 2
 - For = 4
- ◆ Substitute single letters for words that sound like a single letter, and drop all spaces
 - Be, bee = b
 - Gee = g
 - Tee = t
- ◆ Substitute numbers for letters that look similar
 - Use 0 (zero) in place of the letter o
 - Use 1 in place of the letter i

The phrase “To be or not to be” becomes: 2b0rn0t2b. Now, increase the strength of the password by capitalizing one of the letters, or by adding a special character: 2B0rn0t2b#. Once created, you can assess the security of your password using free on-line sites such as [Microsoft's](#)

¹ An example which emphasizes the need for good computer security is the hacking of Sarah Palin's Yahoo email account during the 2008 presidential election. It didn't require any special 'hacking' skills – the hacker simply reset her password using her birthdate, zip code, and information about where she met her spouse (her security questions), all of which was answered by doing a simple Google search.

Password Strength Tester.

You may be thinking to yourself, “That’s okay for one password, but I have dozens to remember!” Not to worry – let’s talk about password management. There are several free software applications available such as KeePass and Password Safe to help you manage passwords. The premise is that by using a password manager, you need only remember one master password (example - 2B0rn0t2b#) to then have access to all your other stored passwords. One benefit that password managers offer is the capability of generating strong, random passwords. You determine the variables (length of password, use of upper/lower case letters, etc.), and secure passwords are then generated automatically for your use to protect sensitive information. Remember, the goal is to create passwords that you cannot remember – let the password manager do its job!

Finally, here are some tips to ensure access to your data is protected:

- ◆ Change the initial password immediately following the first successful login;
- ◆ Passwords should be at least eight characters in length, and include upper & lower case characters, numbers and special symbols;
- ◆ Do not use a name or a word in the dictionary;
- ◆ Change your passwords regularly (best practice is every 90 days);
- ◆ Don't reuse your passwords, use the same password for multiple accounts, or share your login/password;
- ◆ And for goodness sake, don't write them down and put them under your keyboard!



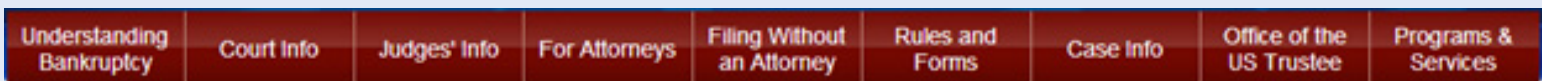
Bankruptcy Court's Redesigned Website

by Sam Nogueras, Courtroom technology Specialist

On January 2, 2013 the United States Bankruptcy Court announced its newly redesigned website. This website was based on a national template to make navigating through multiple districts more uniform and user friendly. Below is a diagram of the new home page:



The new website is organized by a main menu (image below)

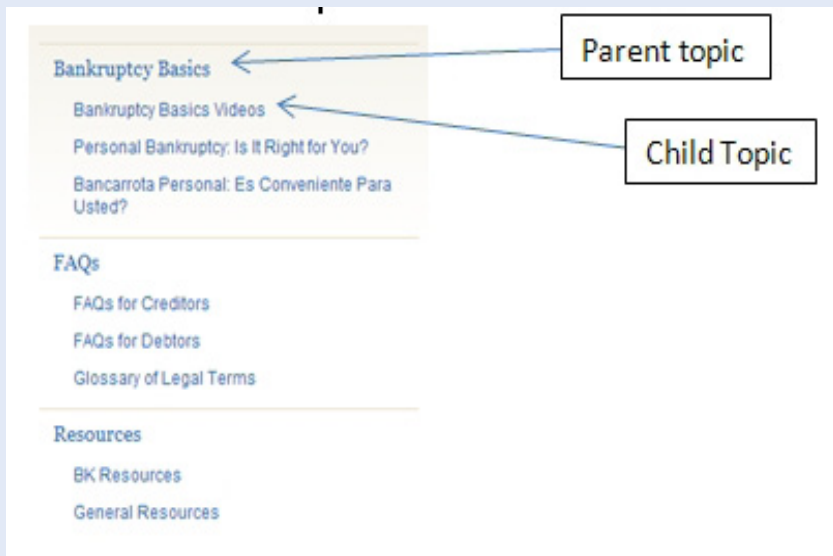


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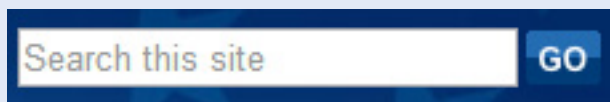
Redesigned Website

(continued from page 7)

Click on one of the main menu options to view sub topics. these topics will be outlined on the left of the screen.



A search feature is located at the top right hand side of every page on the site.



In the course of migrating to a new site, some items may have been moved or eliminated. If you need help locating information or have any questions or suggestions, feel free to contact the helpdesk at:

rib_helpdesk@rib.uscourts.gov

Release of ECF Version 5.1

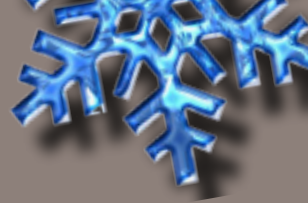
by Jody Venuti, Quality Assurance Specialist

The newest release of ECF (5.1) will be installed in the Spring of 2013. Some enhancements you can look forward to include:

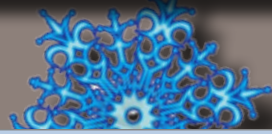
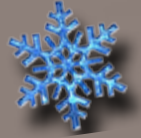
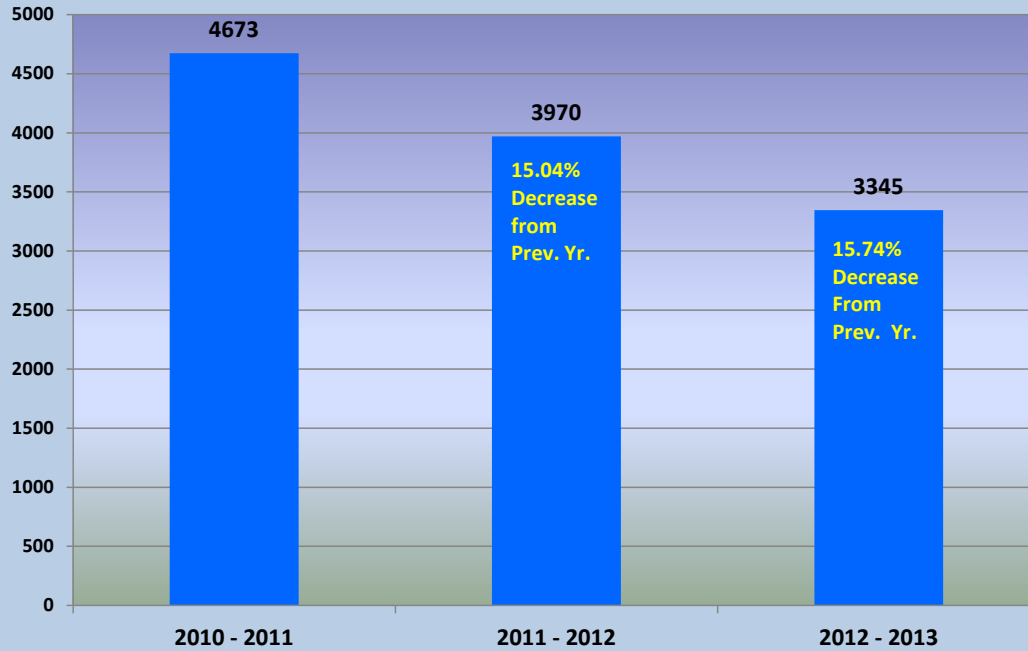
1. The capability for an attorney or creditor filer to terminate themselves from an individual case within an ECF entry is possible in Release 5.1. This will not be available to attorneys for the debtor or the joint debtor, and attorneys will need to certify that they have no controversy before the court and that their client consents to the withdrawal.
2. 5.1 has the ability to allow more than one social security number ("SSN") for a debtor or joint debtor, if need be (the system will allow up to five SSNs and all will display on the Meeting of Creditors notice and all SSNs are searchable in PACER).
3. During the case opening process, ECF will check for prior filings in the district by a debtor with the same SSN/ITIN or the same Tax ID/EIN as the debtor currently filing. If the prior filing was within the last 8 years, the "Prior filing within last 8 years" field will automatically be set to "yes". The filer will be presented with a link to the previous case.
4. The query screen will be enhanced to include; Case Status, Filed Date and Nature of Suit to aid in particular queries.
5. There is a new option in ECF under the Utilities menu that will allow the user to return to the PACER Service Center page. This will save the PACER user time when navigating to other court sites or to the National Party Case Index.
6. The Notice of Electronic Filing will display the attorney's email and party information for each party whom he represents. Previously, the Notice of Electronic filing only displayed attorney's email address.
7. Effective May 1, 2013, a Transfer of Claim filing fee (\$25 per claim transferred) will be assessed.
8. The Internet Payments Functionality in CM/ECF has been modified to allow for electronic collection of the new Claims Transfer Filing Fee. This allows internet payment-enabled filers to pay the Transfer Filing Fee using pay.gov. This modification includes claims upload.

Case Filing Statistics for Period Ending January 31, 2013

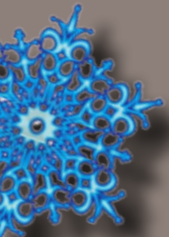
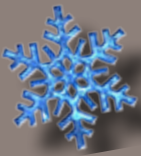
by Gail Kelleher, Chief Deputy Clerk



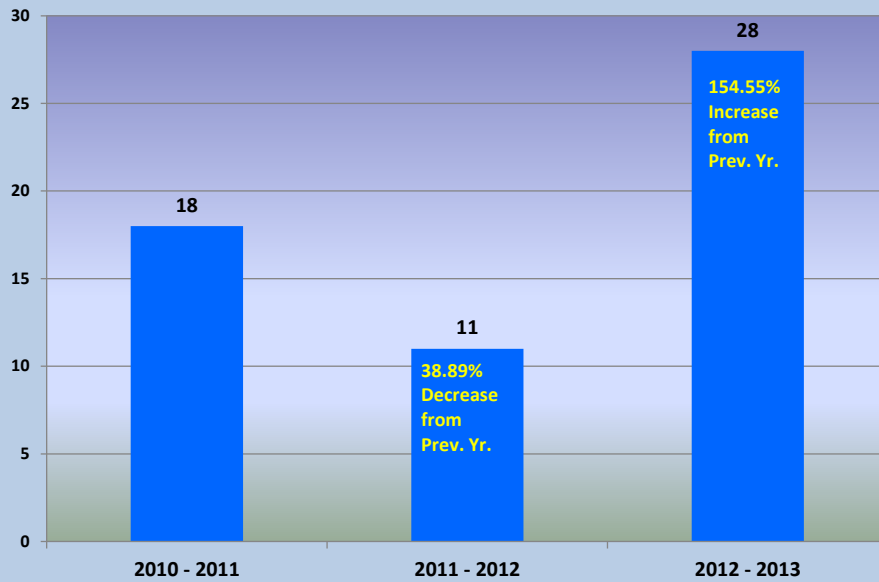
Chapter 7 Case Filings for 12-Month Period Ending January 31st



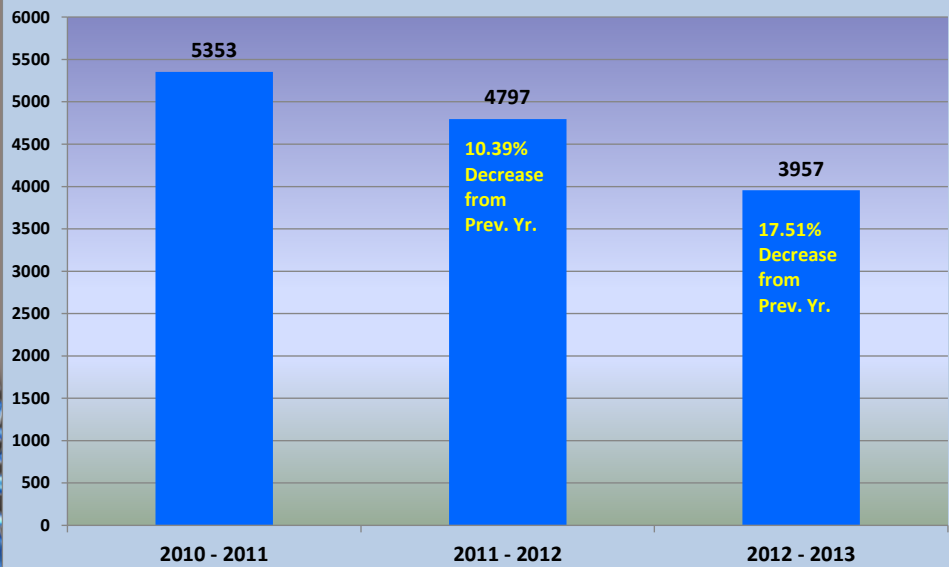
Chapter 13 Case Filings for 12-Month Period Ending January 31st



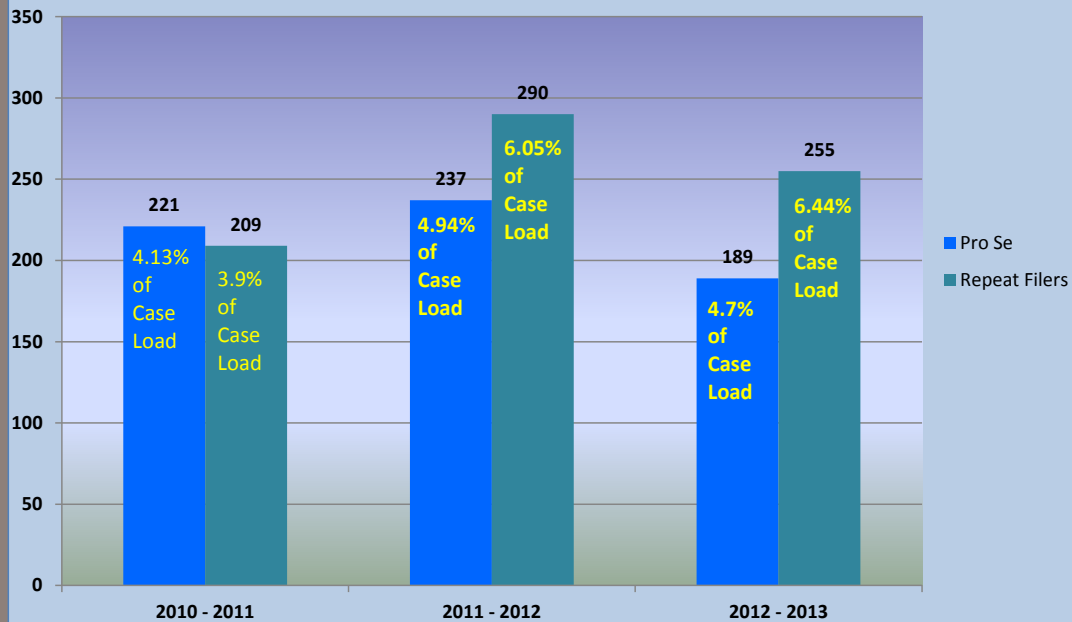
Chapter 11 Case Filings For 12-Month Period Ending January 31st



Comparison of Filings for 12-Month Period Ending January 31st - All Chapters



Pro Se & Repeat Filers for 12-Month Period Ending January 31st



United States Bankruptcy Court
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