

United States Bankruptcy Court, District of Rhode Island



On the Docket

In This Issue

- Inner Workings..... 1
- A Note from Judge Finkle..... 2
- Recent Court Opinions..... 3
- New Chambers Intern 4
- Customer Service Spotlight 5
- Tips on Serving Financial Institutions..... 6
- Upcoming Judicial Events..... 7
- New Addition to the Court Family..... 8
- Federal Executive Council Nominees..... 8
- 7th Amended Loss Mitigation Procedures..... 9
- Loss Mitigation Timeline 10
- Website Feature (Statistics & Reports) 11
- Credit Abuse Resistance Education.. 11
- Noticing Changes..... 11
- Customer Service Survey 14
- Tips and Tricks..... 14
- Case Filing Statistics..... 15

Inner Workings: News and Advice

by Susan M. Thurston, Clerk of Court

Happy Spring Everyone! After such a long and hard winter, it is wonderful to welcome the return of warm weather again.

As mentioned in our last publication of On the Docket, two subcommittees of the Attorney Advisory Committee were established last year to provide advice and recommendations to the Court on revisions to the Loss Mitigation Program and proposals for amending our Local Rules. As a reminder, the members of the Local Rules subcommittee are Lisa Geremia, Patricia 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 are Judge Finkle, Jeffrey Dana, Kevin Heitke, Kathryn Fyans, Russell Raskin, Elizabeth Lonardo, Jordan Baumer and Susan Thurston. During the last several months, these groups have met numerous times and have made great progress in their respective areas.

On April 29, 2013, the Court published proposed amendments to its Loss Mitigation Program, which comment period concluded on May 24, 2013, and went into effect on June 3, 2013. There were numerous substantive changes to the program – most notably, a 60 day deadline for commencing Loss Mitigation

in Chapter 7 cases; a required monthly adequate protection payment to the creditor; and, authorized legal fees for counsel to the debtor and creditor. A red-lined version of the changes is posted on the Court’s Loss Mitigation page of its website, as well as updated resources such as attorney instructions, best practices, flow charts and frequently asked questions. See also pages (9 and 10) infra for a revised flow chart and timeline highlighting the current process.

The Local Rules subcommittee is just completing its review work and expects to have proposed amendments for public comment issued by late summer. We encourage all bankruptcy practitioners to review these upcoming proposals and to submit your comments to the Court by the designated deadline through our website.

As part of a national effort to reduce judiciary noticing costs, the Court recently made changes to its local noticing practice, effective June 1, 2013. This change delegates to filers the responsibility for serving certain notices and/or orders. The docket text will include a text only order indicating the party responsible for serving the document and will require the filing of a certificate of service with the Court within 7 days of service. Please see pages (12 and 13) infra for a chart of these recent changes.

A Note from Judge Finkle

It is hard to believe that I have been on the bench for ten months! The time has been challenging and exciting—many things to learn, from the behind-the-scenes workings of the Clerk’s Office, the Court’s technology systems, new faces and names, the seemingly unending and unresolved issues that arise in Chapter 13 cases, to the many tiers of the federal judiciary (not to mention the numerous reports I and the Clerk’s Office are required to file with various agencies). I am grateful for all the assistance and guidance I have had along the way from Susan Thurston, the Clerk of the Court, my two law clerks Jimmy Dahu and Jordan Baumer, my deputy clerk, the Court’s top notch IT staff, and all the other dedicated staff of the Clerk’s Office.

I want to thank the bankruptcy bar for their cooperation in adjusting to the changes in procedures that have been implemented since I took the bench. I understand that change is often difficult and the process of conforming one’s practices and forms to different procedures can be time consuming. I also appreciate the time many of you took to attend an open meeting with the Court in early December, 2012. Your comments and concerns were shared with the Court’s Advisory Committee which has met on several occasions to review and update the Court’s local rules and consider changes to the Court’s current Loss Mitigation Program. The majority of practitioner’s comments reflected the frustration experienced by both debtors’ and lender’s counsel regarding the cumbersome and lengthy nature of the loss mitigation process. The Court shared many of these same issues and concerns over a backlog of loss mitigation cases stretching back over 3 years. The members of the Advisory Committee have generously given their time to these tasks and I want to recognize each and every member of the Committee for their efforts. Two subcommittees were established, one to review the Loss Mitigation Program and the other to review and update the local rules. This latter subcommittee is working diligently and we anticipate posting proposed amendments to the local rules sometime this summer.

With regard to the Loss Mitigation Program, after collaboration with the subcommittee members, consisting of those who regularly represent debtors and those who represent lenders, and review by the full Advisory Committee, the Seventh Amended Loss Mitigation Program (Appendix IX of the Court’s local rules) was proposed and posted on the Court’s Website at the end of April, 2013, for public comment. These changes were recently adopted by the Court. The Advisory Committee and I believe that these amendments

to the program will render the negotiation process for loan modifications significantly more efficient and expeditious, as well as reduce the parties’ costs. The most significant changes to the program are:

(1) setting a deadline in Chapter 7 cases to require loss mitigation to be requested within 60 days of the petition filing, subject to the filing of a motion describing the specific grounds justifying a later filed request;

(2) commencing within 30 days of the entry of the Loss Mitigation Order, the debtor must make monthly adequate protection payments to the lender in an amount equal to 31% of the debtor’s gross monthly income as reported on Bankruptcy Schedules I & J;

(3) an initial status hearing 45 days after the Loss Mitigation Order is entered;

(4) a new form Status Report and Consent Order for the parties’ use after the posting of the lender’s contact information and the submission of a completed loan modification application by the debtor, in which the parties can propose deadlines for the further submission of information by the debtor, the lender’s review of the same and a continued status hearing;

(5) an increase in the fees that may be charged by both debtor’s counsel and lender’s counsel up to \$2,000 without filing a fee application (payment of lender’s counsel fee may not be required as a condition of participation in the program and may only be assessed to the debtor’s loan account);

(6) Court approval of loan modifications agreed to by the parties not required in Chapter 7 cases; and

(7) Motions for Relief From the Stay continued by virtue of the loss mitigation process to be rescheduled to each of the status hearings held during the loss mitigation process so the Court can address such motions on their merits if loss mitigation is terminated or a loan modification is agreed upon by the parties.

I encourage all participants in a loss mitigation process to utilize the new form “Status Report” and “Consent Order”. They are designed to provide the Court with the information necessary to evaluate and monitor the progress of the matter and to eliminate the time and cost for the parties associated with appearing before the Court if the parties agree upon appropriate deadlines to move the matter toward completion in a reasonable period of time.

I look forward to periodic open forums with the bankruptcy bar to exchange ideas and hopefully improve the Court’s service to practitioners and their clients.

Recent Court Opinions

by Jimmy Dahu, Law Clerk

The following 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 Bequir*, No. 12-10691 (May 1, 2013) (Chapter 7):** The debtor was a beneficiary of a trust holding title in a real estate in which the debtor resided as his principal residence. The trust settlors' died and title to the residence was subsequently vested solely in the debtor. The debtor requested loss mitigation with respect to the first and second mortgages on the residence. The lender objected to loss mitigation, arguing that loss mitigation was inappropriate as the lender could not effectuate a loan modification with a non-borrower. In a Bench Decision read into the record, the Court granted the debtor's loss mitigation requests. In reaching its conclusion, the Court recognized that under Supreme Court precedent, the lender, at the very least, held an *in rem* claim against the residence and the debtor's interest in the residence. The Court also determined that the loan and the real estate fell within the scope of the Loss Mitigation Program. Further, neither the applicable mortgages nor notes contained anti-assignment provisions. Finally, the Court recognized that HAMP contains certain provisions requiring lenders to consider a loan modification with non-borrowers under certain situations, which encompassed that of the debtor because the debtor was the remaining owner occupant and one of the borrowers of the lender was the debtor's deceased mother in addition to the trust.

***In re Ciunci*, 10-14915 (May 3, 2013) (Chapter 7):** On the morning of an evidentiary hearing regarding the debtors' objection to a proof of claim, the debtors and the claimholder announced a settlement in open court on the record. Subsequently, the parties filed a consent order memorializing their settlement, which the Court entered. On the same day the consent order was entered, the debtors filed a motion to vacate the settlement, alleging

that the settlement was the product of duress and coercion caused by their own counsel. After an evidentiary hearing, the Court denied the debtors' motion to vacate. In reaching its conclusion, the Court recognized that the case law requires duress or coercion to be caused by the opposing party, and not by the party's own counsel. The Court further found that even assuming duress or coercion could be caused by one's own counsel, the facts adduced at trial did not evidence duress or coercion warranting vacatur of the settlement.

***In re Birocco*, 09-12521 (May 20, 2013) (Chapter 7):** On October 13, 2009, the debtor received a discharge and the case was closed. On April 12, 2013, the debtor filed a motion to reopen her case for the purpose of filing a reaffirmation agreement relating to real property. In denying the motion to reopen, the Court concluded that Bankruptcy Code § 524(c)(1) requires reaffirmation agreements to be filed prior to the entry of the discharge. With full candor, the debtor's counsel recited in his memorandum numerous cases where the courts denied similar motions to reopen for the purpose of filing a reaffirmation agreement. The debtor nevertheless urged the Court to accept the holding of a Pennsylvania federal district court case which affirmed the bankruptcy court's approval *nunc pro tunc* reaffirmation agreement after the discharge had entered. The Court, however, found that case distinguishable on its facts and essentially applying principles of judicial estoppel based on the conduct of the lender.

Recent Court Opinions

by Jordan Baumer, Law Clerk

The following 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 Murphy, No. 10-13659 (Mar. 6, 2013) (Chapter 13): The proposed confirmation order submitted by the Chapter 13 Trustee in this case provided that “[t]he debtors shall pay to the Trustee the proceeds received from Jean Murphy’s personal injury case.” The Debtors did not object to the order and the Court entered the confirmation order as submitted. Subsequently, the personal injury was settled, and in light of a pending matter under consideration by Judge Votolato, *In re Vargas*, Case No. 10-13103, the Debtors asked that the personal injury proceeds be held in escrow. In ruling on the issues raised in *Vargas*, Judge Votolato held that the value of an unliquidated pre-petition personal injury claim which was not “known or virtually certain” at the time of confirmation was not disposable income. 2011 WL 4482005 (Bankr. D.R.I. Sept. 27, 2011). Following Judge Votolato’s decision in *Vargas*, the Debtors moved to modify the confirmation order to retain the personal injury proceeds. The Trustee in turn moved to modify the confirmation order to effectuate the terms of the order to increase the Debtors’ plan payments to account for the settlement funds. Following *Barbosa v. Solomon*, 235 F.3d 31 (1st Cir. 2000), the Court required the Debtors to present a “legitimate reason” for modifying the confirmation order under 11 U.S.C. § 1329 in light of Congress conferring “significant finality to confirmation orders in Chapter 13 cases” by enacting § 1327(a). The Court concluded that “[t]he binding effect of the Plan should not be disregarded simply to accommodate neglect or inadvertence by a party or its attorney. . . . The Debtors’ motion to modify cannot now be used as a ‘fix-it’ mechanism to rectify their decision to

contribute the personal injury proceeds to the Plan.” As the Debtors failed to present a legitimate reason for modifying the plan, the Court denied the Debtors’ motion and granted the Trustee’s motion to modify the plan payments.

In re Pichardo, No. 12-13015 (Apr. 3, 2013) (Chapter 13): During an evidentiary hearing to determine the value of the Debtors’ property and the appropriate interest rate to be applied when the Debtors intend to cram down the secured creditor’s interest by reducing the principal balance of the mortgage, the Court heard testimony from a licensed appraiser for the creditor and a licensed real estate broker for the Debtors. In determining value, the Court concluded, “[a] real estate broker is simply not on the same level playing field as a licensed appraiser, and absent material irregularities in the appraisal, an appraiser’s assessment of value should be afforded greater weight than that of a broker. . . . [A] party who relies upon a real estate broker’s opinion of fair market value to oppose a valuation by a licensed appraiser faces another evidentiary hurdle that would otherwise not be present if the experts before the court were both qualified licensed appraisers.” In this case the Court determined that the broker’s opinion of value lacked credibility and adopted the valuation of the creditor’s appraiser. As to the applicable interest rate, the Court considered the broad factors set forth by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004), and the guidance provided by *In re Plourde*, 402 B.R. 488 (Bankr. D.N.H. 2009), and *In re St. Cloud*, 209 B.R. 801 (Bankr. D. Mass. 1997). Based on the Debtors’ circumstances and the relevant factors, the Court adjusted the interest rate upward to account for questionable feasibility of the underlying Chapter 13 plan, but did not adopt the interest rate sought by the creditor.



Chambers Welcomes a New Intern

by Carolyn Sweeney, Case Manager

On June 3, 2013, Ryan Marcus, who has completed his first year of law school at Duke University, began his summer internship in the chambers of Judge Diane Finkle. Ryan, who has expressed a longstanding interest in corporate and municipal bankruptcy, will be assisting Judge Finkle with loss mitigation matters, research projects and organizing the law library.

Please welcome Ryan to the Bankruptcy Court if you see him!

Customer Service Spotlight

by Dina Fortes, Case Manager

Do you need to contact someone at the court and just can't figure out how? The United States Bankruptcy Court has a variety of ways to assist you in your dealings with the Court. From modern day electronic chats to the good old telephone, the Court is here to assist. Several ways to contact the Court are listed below.

Live Support On-line aka Live Chat is an on-line chat program available on our website that is manned by clerk's office staff during regular business hours. Live Chat allows the user to be in real time contact with a court employee from the comfort of their office, home, or even by mobile device. There is an instantaneous response to all inquiries during regular business hours. Live Chat can be accessed through an icon on the top left of any court webpage as well as from the main page underneath the red menu bar. Simply fill out the form, select the appropriate department for your question, and a court employee will assist you on the other end of the chat session.

The **Helpdesk** link is another method for obtaining on-line assistance from the Court. Helpdesk is an email-based customer assistance tool managed by clerk's office staff. The helpdesk link can be found under Court Info > Telephone Directory and Email Listings section of our website. We strive to respond to all helpdesk questions within 24 hours of receipt.

Case Manager Assignments: If you have a question about a particular case and need to contact the assigned case manager but are unsure who that is or don't know how to reach them, visit the case manager assignment page under the Court Info menu. Once there, simply click on the Case Manager Assignments link and you will be taken to the list of case manager assignments, their email addresses and direct telephone numbers. You can click on the case manager's name and their email address will populate in your email system to send them a message. You choose which method is more useful – telephone or e-mail.

Other Court Staff Contact Information: The **Telephone Directory and Email Listings** page also contains contact information for other court personnel in the clerk's office. This directory is located on the Court Info menu under "Telephone Directory and Email Listings" at the bottom of the menu list.

Customer Service Hours: The Clerk's office is open to the public Monday through Friday from 9:00 AM-4:00 PM, and by telephone from 8:30 AM- 5:00 PM, and we are always happy to assist in any way we can.

We hope our review of the above methods broadens your knowledge of ways to obtain assistance from the Rhode Island Bankruptcy Court.

Tips on Serving Financial Institutions

by Jimmy Dahu, Law Clerk

The Court has observed inadequate service on financial institutions, namely banks and/or their servicing agents. The service issue arises most frequently with respect to motions, including those embedded in a Chapter 13 plan, to modify or strip off a bank's secured claim and in requests to institute the loss mitigation under the Court's Loss Mitigation Program. In an effort to assist the local bar to achieve proper and adequate service on such institutions, the Court provides these brief practice tips that will hopefully be helpful to practitioners. These practice tips are merely suggestions by the Court to assist counsel and are not mandates. Each attorney should utilize his or her own experience and judgment as to proper service on a case by case basis. However, unless specifically listed as the address for service or correspondence in a creditor's filed proof of claim, it is strongly recommended that all efforts be made to avoid service upon a financial institution using a post office box. The Court understands that with respect to certified mail delivery to a post office box, notice that certified mail is being held at the applicable post office for the recipient is all that is delivered, not the actual document. Moreover, these addresses are usually just payment processing centers.

I. Service Should Be Made in Accordance with LBR 9013-3

On January 28, 2013, the Court amended LBR 9013-3. Pursuant to this amendment, when serving a document, counsel are required to use the addresses listed on the most recent Mailing Matrix by Case Report available on the Court's ECF system as of the date service will be made, and attach to the certificate of service to be filed with the Court a copy of Mailing Matrix used to effectuate service. **If the Mailing Matrix by Case Report contains more than one address for a particular party, then service should be made on all addresses listed unless counsel is aware that a particular address is ineffective.** If counsel has received notice that an address on the Mailing Matrix by Case Report is no longer valid, counsel can indicate same on the certificate of service and Mailing Matrix attached and need not serve any such address. Where the Mailing Matrix by Case Report indicates that an entity has specified a preferred mailing address, counsel only needs to serve the entity at the preferred address.

II. Check the Claim Register

Pursuant to FED.R.BANKR.P. 2002(g), notices should be sent to an address specified in a filed proof of claim rather than any other address previously used for that creditor. The Mailing Matrix by Case Report is designed to capture all notice addresses indicated in proofs of claim, thereby further ensuring that the most relevant addresses are being served. Nevertheless, it is recommended that a party serving notice still review the claims register for additional service addresses listed on a proof of claim form for service or correspondence.

III. Suggestions for When No Proof of Claim has Been Filed and You Have No Contact Directly from Counsel or the Financial Institution.

A. Check Addresses Listed on the Website for the Rhode Island Department of Business Regulation

The Rhode Island Department of Business Regulation maintains comprehensive lists of, among other entities, banks operating with Rhode Island. These lists also provide various addresses for such banking authorities, including service addresses for statutory agents. These lists are located at <http://www.dbr.state.ri.us/divisions/banking/license.php>.

B. Check for Service Addresses on the Website for the Rhode Island Secretary of State

The Rhode Island Secretary of State maintains addresses for all corporations registered to do business in Rhode Island, including providing service addresses for statutory agents for numerous national banks. A search on the Rhode Island Secretary of State's website for additional service addresses is recommended at the following link: <http://ucc.state.ri.us/CorpSearch/CorpSearchInput.asp>.

C. Check for Service Addresses on the Website for the FDIC

Banks that are insured by the Federal Deposit Insurance Corporation (the "FDIC") are referred to as "insured depository

Tips on Serving Financial Institutions

(continued from page 6)

institutions.” See 12 U.S.C. § 1813(c)(2) (“The term ‘insured depository institution’ means any bank or savings association the deposits of which are insured by the [FDIC] pursuant to [28 U.S.C. et seq.]”). A search on the FDIC website will produce addresses for each branch location of an insured depository institution. See¹ <http://www2.fdic.gov/IDASP/main.asp>. Counsel should be aware that **R.I. LBR 3015-1(c)(1)(A) [chapter 13 plans seeking to modify secured claims] requires service to be made to an “insured depository institution” in accordance with FED.R.BANKR.P. 7004(h), which, in turn, requires service to be made on an *officer of the institution*.**

D. Check for Service Addresses on the Website for the National Information Center

“The National Information Center (NIC) provides comprehensive information on banks and other institutions for which the Federal Reserve has a supervisory, regulatory, or research interest including both domestic and foreign banking organizations operating in the U.S.”² A search may be conducted at this link: <http://www.ffiec.gov/nicpubweb/nicweb/SearchForm.aspx>.

E. Check for Notice Addresses Listed in the Promissory Note or Mortgage

Typically, promissory notes and/or mortgage documents will contain a section which identifies the contact person and address where notices should be sent.

F. Search Addresses Available on the Department of Treasury’s Website

Banks that are participating in the Home Affordable Modification Program (“HAMP”) have agreements with the U.S. Department of the Treasury which may contain additional notice addresses on which service can be made. These agreements can be found online at the following link: www.treasury.gov.

¹ By way of example, a search for all “Bank of America, National Association” offices in Providence, RI revealed addresses for twelve (12) branch locations.

² <http://www.ffiec.gov/nicpubweb/content/help/NICFAQ.htm#nic>.

Upcoming Judicial Events

by Gail Kelleher, Chief Deputy Clerk

The Honorable Judge Diane Finkle will be a panelist at this year’s RI Bar Association annual meeting, which will be held on June 13th and 14th. The breakout session Best Practices in Bankruptcy Court is scheduled for Friday morning (6/14) and will focus on best practice tips and avoiding pitfalls from the perspective of the Judge, US Trustee, Chapter 7 trustee as well as veteran debtor/creditor attorneys. Recent changes to the Court’s Loss Mitigation program will also be discussed.

Supreme Court Justice Elena Kagan will be visiting Rhode Island August 18 – 20. In celebration of the 250th anniversary of the Touro Synagogue in Newport, Justice Kagan will serve as keynote speaker and perform the reading of the George Washington letter on Sunday afternoon (8/18). A public event to be hosted at the Trinity Repertory Theatre is in the early planning stages – more information will follow as details are made available.

Retired Supreme Court Justice Sandra J. O’Connor will be the keynote speaker at the US District Court Conference to be held October 10, 2013 at the Omni Hotel. An open plenary is planned with the Honorable Judges Diane Finkle, O. Rogeriee Thompson, John J. McConnell and Patricia A. Sullivan discussing their transition into the role of judge. Breakout sessions will be held in the morning and afternoon; closing plenary will feature e-Discovery, which refers to discovery in civil litigation that deals with the exchange of information in electronic format.

A New Addition to the U.S. Bankruptcy Court Family!

by Carolyn Sweeney, Case Manager

The U.S. Bankruptcy Court has welcomed a new addition to our family! Samuel Nogueras, who has worked as the Courtroom Technology Specialist for the last 5 years, and his wife Rictania, had their first child, a son named Joshua, on Tuesday, May 21st. Baby Joshua and mom are doing great and Sam, the proud dad has enjoyed some well-deserved time off with his family. Feel free to congratulate Sam the next time you see him!

Welcome Joshua!



Holly and Gail

Federal Executive Council Nominees

by Amy Seale

The Rhode Island Federal Executive Council's annual Federal Employee of the Year Awards luncheon was held on May 8, 2013. Federal employees from across Rhode Island came together to celebrate and honor the accomplishments of their coworkers. Rhode Island Bankruptcy Court nominees were Holly D'Agostino, Courtroom Deputy, and Gail Kelleher, Chief Deputy.

Gail was nominated and awarded the RI Federal Employee of the Year award for the Manager/Supervisor category. Her accomplishments in support of her nomination addressed her work in cost containment and budget prioritization, the Court's Employee Recognition program, overseeing the Court's implementation of Livezilla Chat [live chat], and conversion of the Court's internal and external user manuals to Structured Writing [which is an easy to read technical writing format].

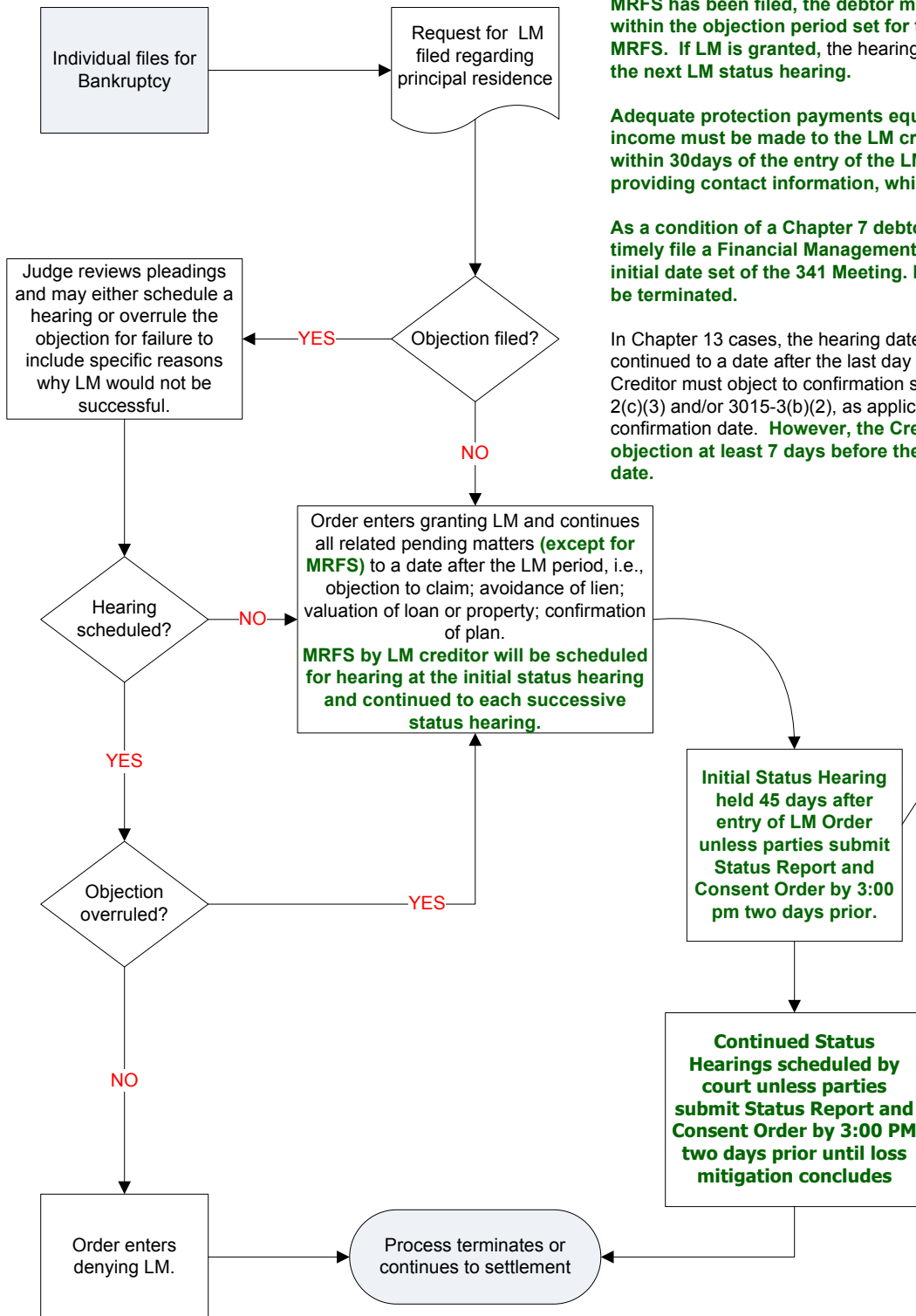
Holly D'Agostino was nominated for her work on ensuring a smooth transition from the Court's retiring Judge, to our visiting interim Judges, right up until the Court's eventual appointment of Bankruptcy Judge Diane Finkle. In addition, Holly has worked throughout the year to help transition the court from a paper based calendaring system to an electronic calendaring program.

Congratulations to our nominees and award recipients!

Congratulations!

SEVENTH AMENDED LOSS MITIGATION [LM] PROCEDURES [effective June 3, 2013]

Revised May 15, 2013



Deadlines for LM Request: Chapter 7 (within 60 days of the filing of the bk petition); Chapter 13 (at any time; early as possible encouraged). If a MRFS has been filed, the debtor may request LM as long as it is filed within the objection period set for the MRFS along with an objection to the MRFS. If LM is granted, the hearing on relief from stay will be continued to the next LM status hearing.

Adequate protection payments equal to 31% of debtor's gross monthly income must be made to the LM creditor. Payments must commence within 30 days of the entry of the LM Order or within 10 days of the creditor providing contact information, whichever occurs later.

As a condition of a Chapter 7 debtor's participation, the debtor must timely file a Financial Management Course Certificate within 60 days of the initial date set of the 341 Meeting. If not timely filed, Loss Mitigation may be terminated.

In Chapter 13 cases, the hearing date for confirmation of the plan shall be continued to a date after the last day of the LM period. The deadline by which a Creditor must object to confirmation shall be governed by local rules 3015-2(c)(3) and/or 3015-3(b)(2), as applicable, and calculated from the rescheduled confirmation date. **However, the Creditor shall update any previously filed objection at least 7 days before the rescheduled confirmation hearing date.**

- Parties seeking compliance may:
- Seek termination of the LM order (**any pending MRFS will be heard on same date as hearing on Motion to Terminate**)
 - File a motion to compel a representative of the creditor to appear (**must be filed 7 days prior to status hearing**).

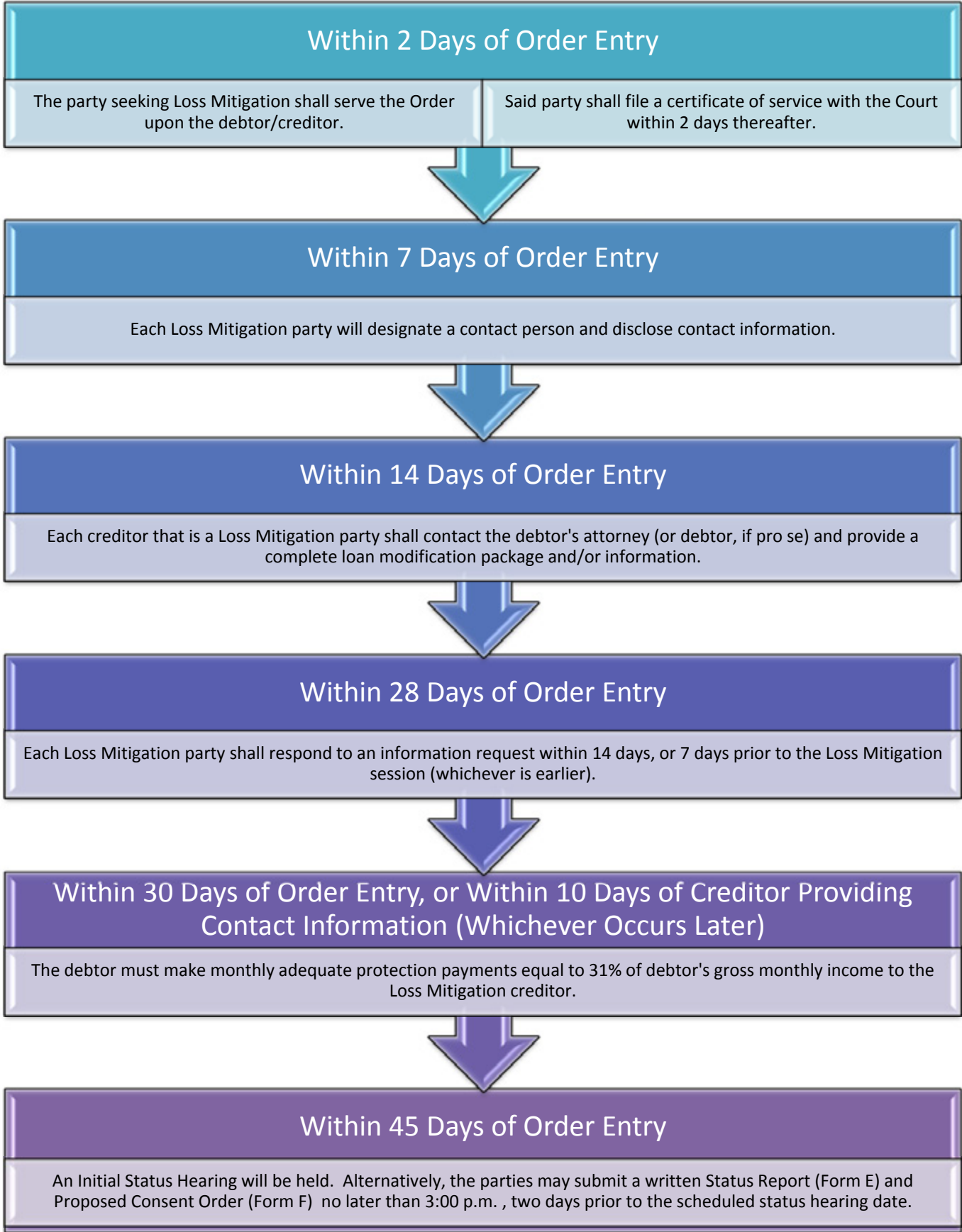
Deadlines Calculated from Entry Date of Loss Mitigation [LM] Order

- 2 days – Party seeking LM will serve the Order on the Debtor/ Creditor and file a certificate of service with the Court within 2 days thereafter.
- 7 days - Contact info due from each party;
- 14 days – Creditor contacts Debtor's Attorney or pro se debtor and **provide complete loan modification package**;
- 28 days – Parties must respond to info request [or 7 days prior to LM session] **unless other dates directed by the Court**;
- 30 days – Begin monthly adequate protection payments;
- 45 days – Initial Status Hearing;

In addition, Financial Management Course must be completed within 60 days of Sec. 341 Meeting, otherwise LM may be terminated.

Please consult the Seventh Amended [effective June 3, 2013] Loss Mitigation Program and Procedures [Appendix IX of the R.I. Local Rules] for detailed information and instructions.

Loss Mitigation Time Line



Website Feature - Statistics and Reports

by Gail Kelleher, Chief Deputy Clerk

Did you know that the Court maintains bankruptcy filing statistics (local and national) as well as interactive reports on its website? In addition to displaying filing trends and historical filing information, a tool is available which allows users to perform interactive searches by month from 1999 to present. Your search can be based on chapter, county, debtor type; you may access these reports on our web site www.rib.uscourts.gov by clicking on the red 'Court Info' tab and choosing Statistics and Reports from the drop down menu.

In addition to the statistical reports, there are three (3) automated reports which display real-time filing information for the following:

- Business Filings
- Relief From Stay Motions
- Notices of Intended Sale

The Business Filings report displays basic case information for pending corporate filings from January 1, 2009 to present, ordered by most recent filing date. Information at a glance includes: case name, chapter, filing date, and trustee contact information. The docket text for the voluntary petition displays and references the debtor's attorney.

Two other reports concern real estate -- the Relief from Stay and Notice of Sale reports both list pending requests for these types of relief. As with the other reports, they are fully searchable by using the Ctrl+F key combination on your keyboard. Both reports were added to our website several years ago to increase public awareness of bankruptcy sales and to generate increased sale participation.

The last report is actually a search engine for unclaimed funds deposited with the court. The database can be searched by either case number or by the name of the debtor or creditor. The forms required to claim the funds are available on this page as well. On a related note, please advise your clients to keep their contact information in court records up-to-date! This is especially true for chapter 13 debtors who often overpay the chapter 13 trustee and fail to keep the court informed of their most recent address during the course of their five (5) year plan. These unclaimed funds are inevitably deposited with the court. While the court does its best to contact individuals and companies whose payments/refunds are returned to the trustee as undeliverable, there is currently an excess of \$200,000 that remain unclaimed.

Credit Abuse Resistance Education

by Janet Descoteaux, Public Information Specialist

The Court has recently completed its third and final year of presenting the Credit Abuse Resistance Education Program to local area high school students. Although we may be able to present a limited number of auditorium style presentations in the future, financial reductions caused by sequestration have left the Court with insufficient staffing to continue to offer these important classroom presentations in the immediate future.

The Rhode Island Bankruptcy Court would like to express our sincere appreciation to the following volunteer attorneys for their participation in our Financial Literacy Program over the past three years:

Patricia Antonelli
Jeffrey M. Biolchini
Steven J. Boyajian
Nelson F. Brinckerhoff
Jules J. D'Alessandro
Jeffrey Dana
Lisa A. Geremia
James E. Kelleher
Ann Marie Maccarone
Matthew J. McGowan
Charles A. Pisaturo, Jr.
Russell D. Raskin
Elizabeth Silberman Phillips



The program's success in educating local high school students on the proper use of credit in our society would not have been possible without the help of our volunteers. Since the program began in 2010, we delivered 90 CARE presentations to 17 different schools, reaching approximately 2,400 students. The teachers' feedback was very positive, including praise for the presenters and the curriculum content. Many of them stated they also learned something new and interesting during the presentation. Thanks to all of you who helped make this program a success.

Noticing Changes

by Amy Seale, Operations Manager

On June 1, 2013, the Court put into effect new noticing requirements for certain filers. This delegation is in response to the Administrative Office of the US Courts' request that all courts review their noticing policies and delegate noticing in instances where the Court is not required to provide the service.

Below is a chart which includes four types of notices that the Clerk's Office has been serving on behalf of filers since our migration to the Bankruptcy Noticing Center in 1996. These notices are now delegated to filers to serve.

Noticing Changes Effective June 1, 2013

Notices			
Filing	Current Procedure	New Procedure	Notice Requirements, Deadlines and New Docket Text
Notice of Interim Fee Application	Currently the Court mails this notice to all creditors.	<i>The Filer</i> will be ordered to serve this notice on all parties and creditors, and file a certificate of service. The Court will generate the notice for the filer to serve.	<p>ACTION REQUIRED: The notice must be mailed immediately and a certificate of service to all parties and creditors must be filed within seven days of issuance of the notice.</p> <p>NEW DOCKET TEXT: Notice of Interim Compensation (related document(s) [6] Application for Interim Compensation filed by Attorney John Smith). <u>Filer is ORDERED to serve the attached notice on all interested parties and all creditors, and file a certificate of service with the Court by [seven days].</u></p>
Notice of Final Fee Application	Currently the Court mails this notice to all creditors.	<i>The Filer</i> will be ordered to serve this notice on all parties and on all creditors who have filed claims or received an extension of time to file claims. The Court will generate the notice for the filer to serve. [RIBC Doform 333]	<p>ACTION REQUIRED: The notice must be mailed immediately to all parties and all creditors who filed claims or received an extension of time to file claims and a certificate of service must be filed with the court within seven days of issuance of the notice.</p> <p>NEW DOCKET TEXT: Notice of Final Compensation (related document(s) [6] Application for Final Compensation filed by Attorney John Smith). <u>Filer is ORDERED to serve the attached notice on all interested parties and all creditors who have filed claims or have received an extension of time to file claims, and file a certificate of service with the Court by [seven days].</u></p>

Noticing Changes Effective June 1, 2013

Notices

<p>Order re §105 Status Conference</p>	<p>Currently the Court mails the §105 status conference order to all creditors.</p>	<p><i>The Debtor</i> will be ordered to serve this order on all interested parties and all creditors and file a certificate of service. The Court will generate the order for the Debtor to serve.</p>	<p>ACTION REQUIRED: The order must be mailed immediately to all parties and all creditors and a certificate of service must be filed with the court within seven days of issuance of the order.</p> <p>NEW DOCKET TEXT: Chapter 11 Order and Notice. Section 105 Status hearing to be held on 3/29/2013 at 10:00 AM at 6th Floor Courtroom. Application to Employ Due by: 3/22/2013. Status Check re: Scheduling of 341 Meeting: 3/12/2013. <u>Debtor or Trustee if one is appointed, is ORDERED to serve the attached order and notice on all interested parties and all creditors, and file a certificate of service with the Court by [seven days].</u></p>
<p>Order Approving Notice of Intended Sale</p>	<p>Currently the Court mails this order.</p>	<p>The Court will mail the Order approving Notice of Intended Sale <i>on contesting parties only</i>.</p> <p><i>The Filer</i> will ordered to serve the Order on all interested parties and all creditors, and file a certificate of service. The Court will generate the order for the Filer to serve.</p>	<p>ACTION REQUIRED: The order must be mailed immediately to all parties and all creditors and a certificate of service must be filed with the court within seven days of issuance of the order.</p> <p>NEW DOCKET TEXT: Order Granting (related document(s):14 Notice of Intended Sale) re: One Main Street to John Doe in the amount of \$500,000. <u>Filer is ORDERED to serve the attached Order on all interested parties and all creditors, and file a certificate of service with the Court by [seven days].</u></p>



Customer Service Survey

by Gail Kelleher, Chief Deputy Clerk

Our 19th Annual Employee Recognition Ceremony will be held this September, and we need your help in recognizing the employee most deserving of our Customer Service Award. A link to our annual customer service survey will be activated July 1st on the court's website; look for an email notification within the next two weeks and share it with your support staff. As always, your nominations are anonymous and your participation is valued and appreciated.

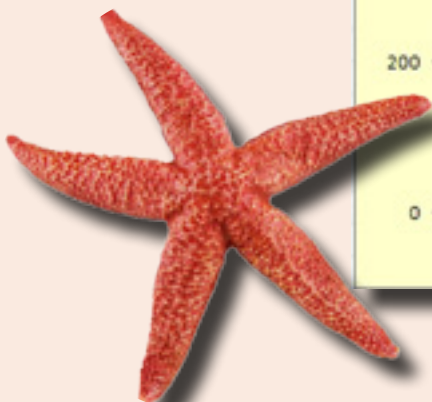
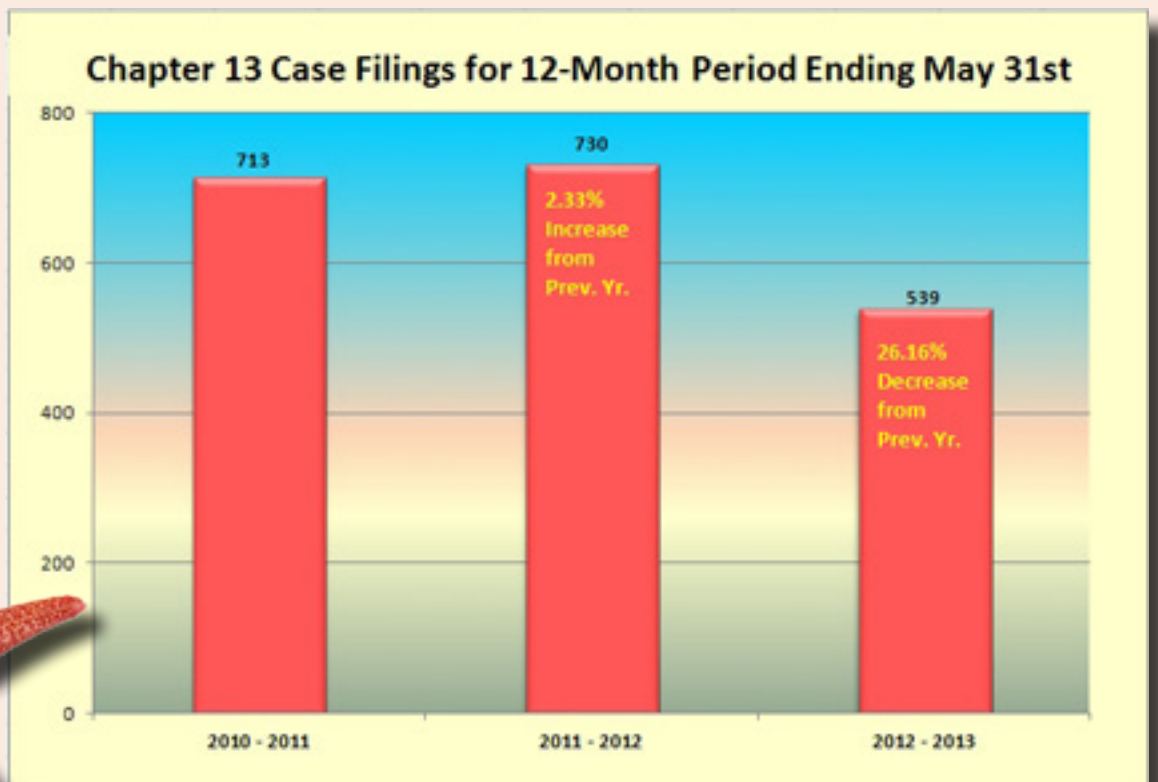
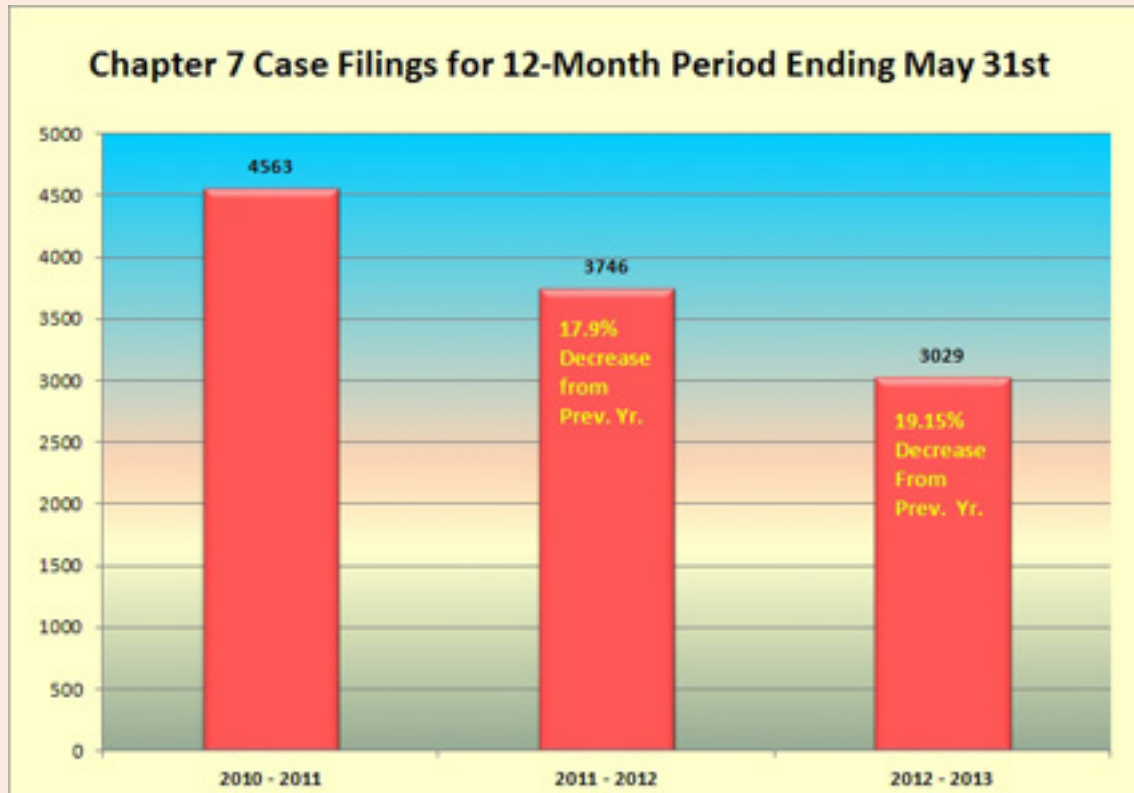
Tips and Tricks

by Dina Fortes, Case Manager

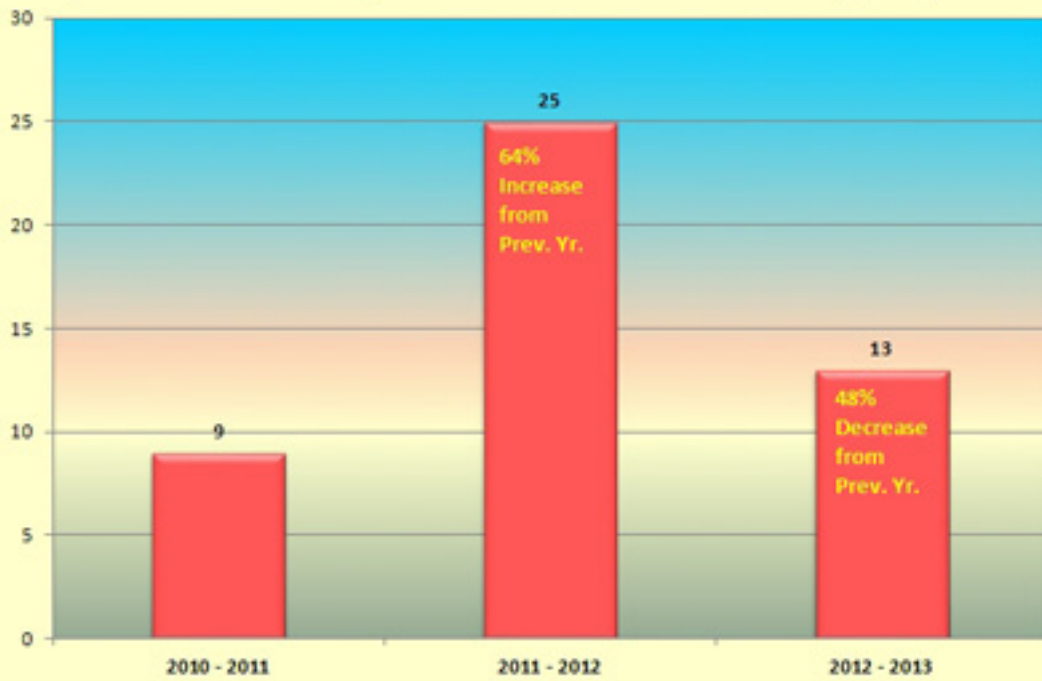
- When filing a new case for debtors that have aliases, make sure all the aliases listed on the petition are entered into ECF as well.
- Some official and local forms have been revised. Be sure to check that the forms you are using are up to date. Updated forms can be found on the courts website: www.rib.uscourts.gov, under "Rules and Forms", and by selecting "All Forms".
- Motions to File Out of Time are required when filing a document past the deadline. These Motions must indicate **WHY** the document is being filed out of time. This type of motion can be filed in both the Bankruptcy and Adversary categories under Motions/Applications. The motion must be linked to the document it pertains to in ECF.
- Reminder: LBR 9013-3 requires using the most recent addresses for service. This matrix can be generated from ECF by choosing: Utilities>Mailings>**Mailing Matrix by Case (use this for service)**. As proof of service, you must attach a copy of this matrix to the certificate of service you file with the Court.
- LBR 1005-1(d) required response time language **MUST** be included on all motions filed with the court. If this language is not listed on your motion, the document will be treated as defective.
- When you receive notice from the BNC that a better address for a creditor is needed for the Court, you must use the Debtor(s) Notice of Updated Address event. You can file this in ECF by choosing the **Bankruptcy or Adversary tab> Other > Debtor(s) Notice of Updated Address**. Keep in mind, the pdf you attach **MUST** include the old or incorrect address (as indicated by the BNC) as well as the updated address. Do not use this event to update an address that was not deemed undeliverable by the BNC.
- If you change your email address, be sure to update your ECF account immediately with the new email address (Utilities/My User Account/Email Information), or contact us and we will help you. This will ensure you don't miss any Notices of Electronic Filing emails.

Case Filing Statistics for Period Ending May 31, 2013

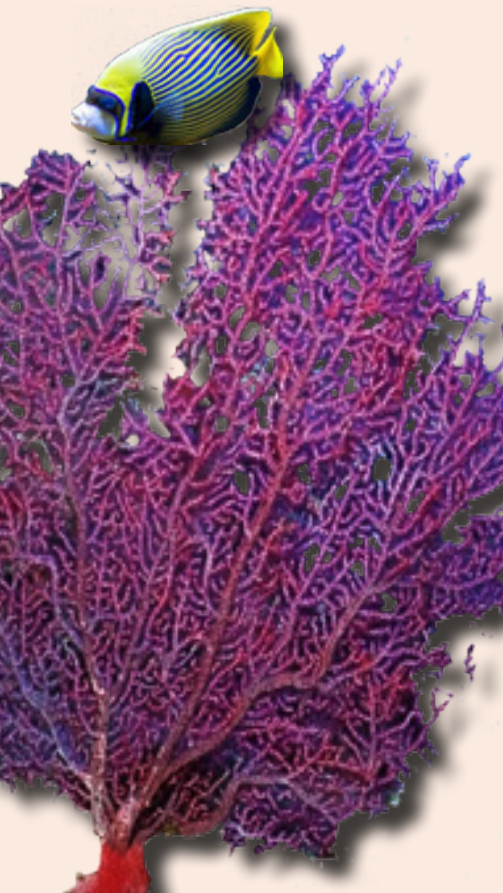
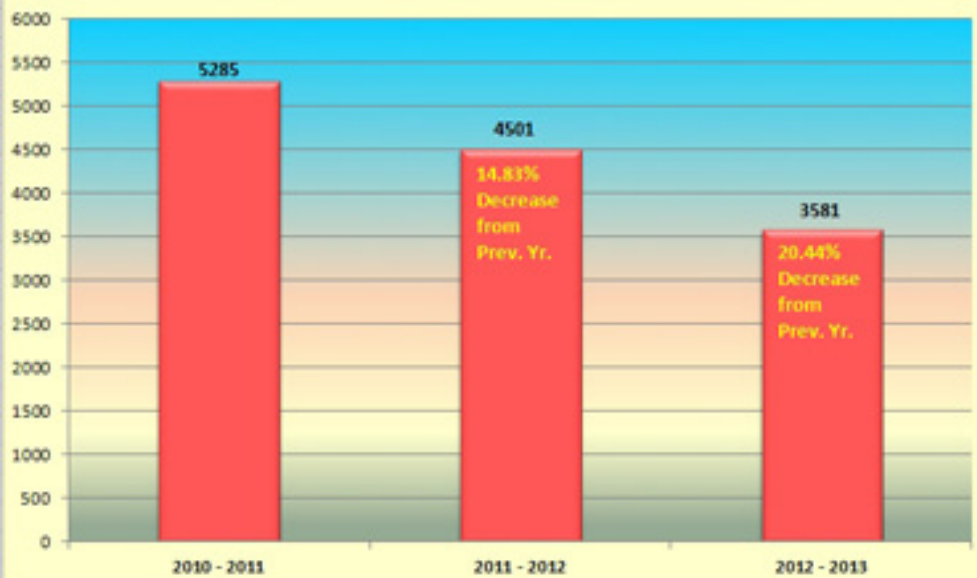
by Gail Kelleher, Chief Deputy Clerk

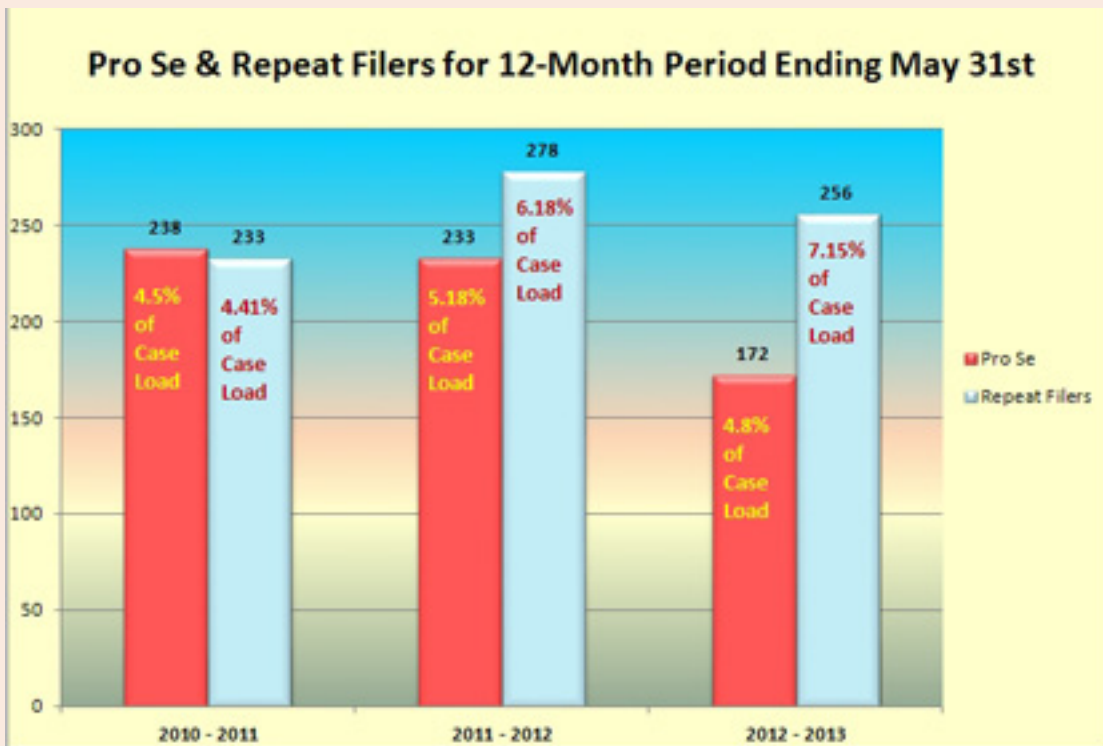


Chapter 11 Case Filings For 12-Month Period Ending May 31st



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





UPCOMING COURT HOLIDAY CLOSING DATES

Independence Day: 07/04/13
 Labor Day: 09/02/13
 Columbus Day: 10/14/13

CONTACT ON THE DOCKET PUBLICATION STAFF

If you have any comments regarding this issue or want to suggest ideas for future articles, please contact "On the Docket" staff at the following email address:

Janet_Descoteaux@rib.uscourts.gov

Please do not use the above email address to file or send papers to the court or to ask questions about court procedures or status of a particular case. Contact the clerk's office at the following number for assistance in these matters.

Visit the court website www.rib.uscourts.gov
 for local filing information.

Thank you.

Clerk's Office: (401) 626-3100

Please Note:

Clerk's office staff is not permitted to give legal advice.