

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

After a relaxing Memorial Day weekend, we are back at work but certainly looking forward to a warm summer after our long winter. In our [February newsletter](#), we shared news of our major pending projects for 2014 and I am pleased to say they are coming along well. Our tenant alteration work finally began in late April, with an updated chambers suite that has just been completed, including new kitchenette, bath, ceiling, lighting and paint throughout. The contractors are now working on the ceilings and lighting in the main Clerk's office space, so if you notice extra dust and noise, realize it is for a good purpose! Sometime during the summer, the construction will move to the public area and intake section, during which we will relocate these services temporarily to the attorney conference room.

Our social media efforts are also well underway. Hopefully, you all received our May 7th announcement of the launch of our Twitter account. We currently have 38 followers, and would love to grow that number to reach all of our users. While most of our communications are broadcast through multiple channels ([website](#),

[email](#), [Facebook](#), [Twitter](#)), some of our last minute news is distributed only via Twitter. This includes links to First Circuit Court of Appeal decisions on bankruptcy issues, and quick reminders about upcoming court events, rule and form changes. So, if you follow other bankruptcy feeds on Twitter, consider adding our court to your list. You can find us at <https://twitter.com/USBCDRI1>.

Shortly, we expect to post new and updated attorney resources on our website. We have a new Attorney Manual, a revised Electronic Filing User Manual and four new form templates covering: (1) Motion to Avoid Lien; (2) Notice of Intended Sale; (3) Motion for Authority to Obtain Credit; and (4) Order Granting Motion to Obtain Credit. It is our hope that these resources will provide not only a better understanding of electronic filing steps, but also general procedural tips for practicing in the Bankruptcy Court.

New fee changes for chapter filings went into effect on June 1, 2014, and with them, a few form changes to incorporate them ([Official Form 3A and 3B](#), and [Director Forms B200, B201A](#)). The total fee for a chapter 7

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Inner Workings: News and Advice

(Continued from Page 1)

case will now be \$335, for a chapter 13 case \$275 and for a chapter 11 case \$1,717. The fee for filing an adversary proceeding will increase to \$350.

We hope you will find this edition of our newsletter informative and useful. Please feel free to email me at Susan_Thurston@rib.uscourts.gov with your ideas to improve the Bankruptcy Court and its operations.

Recent Court Opinions

by Julianne Fitzpatrick, Law Clerk;
Jonathan Pincince, Law Clerk; and
Yishaya Marks, Intern Law Clerk

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

Travers v. Bank of America, N.A., A.P. No. 11-01047 (In re Travers, BK No. 11-12650) (Mar. 25, 2014) (Chapter 7): The Court granted the defendant-creditor's motion to dismiss for lack of subject matter jurisdiction, pursuant to Fed.R.Civ.P. 12(b)(1), because the plaintiff-debtor's claims were not core-proceedings arising under Title 11 or in a case under Title 11, and her claims no longer related to her underlying bankruptcy case where they were exempt from property of the estate and the underlying bankruptcy case had already closed. The Court declined to exercise its discretionary power to retain jurisdiction over the adversary proceeding based on the particular facts of this case.

In re Demers, BK No. 13-11539 (June 5, 2014) (Chapter 13): The Court sustained the debtor's limited objection to the amount of the secured creditor's claim for a pre-petition mortgage arrearage, where the creditor had included in its claim costs related to a foreclosure proceeding it did not have the right to initiate because it had not satisfied the contractual condition precedent of notifying the debtor prior to acceleration that she had a right to bring a court action to assert the non-existence of a default or any other defense to acceleration and sale.

NEW PROCEDURES

The Court recently adopted the following two procedural changes that practitioners should note:

Compliance with Federal Rule of Bankruptcy Procedure 4001 - Motions for Authority to Obtain Credit:

The Court will treat as defective any motion for authority to obtain credit filed pursuant to Fed.R.Bank.P. 4001(c)(1)(A) and LBR 4001-3 that fails to include the information required by Fed.R.Bank.P. 4001(c)(1)(B) "Contents", and/or fails to include, as an attachment, the required copy of the credit agreement *and* proposed form of order. The filer will be required to re-file the document with the appropriate information and/or attachments before further action is taken on such motion. To assist filers with this process, the Court has created templates for form of motion and proposed order, which are available on our website under "[For Attorneys>Bankruptcy Resources & Manuals>Commonly Used Form Templates](#)".

Motions to Continue or Extend the Automatic Stay pursuant to 11 U.S.C. § 362(c)(3)(B):

Pursuant to 11 U.S.C. § 362(c)(3)(B), in order for the Court to timely act on motions to continue the automatic stay, which stay would otherwise lapse on the 30th day after case filing, counsel are advised to file any such motions within the first ten (10) days of case filing so the standard 14-day objection period prescribed in R.I. LBR 1005-1(d) (plus 3 days for mail) may expire and a hearing may be held within 30 days of case filing. The Court will no longer *sua sponte* treat such motions on an emergency or expedited basis, unless the motion itself is captioned as an emergency motion or a motion for expedited determination in accordance with R.I. LBR 9013-2(d). Any such motion must set forth the specific reasons why the motion to continue the stay was not filed in time for the standard objection period to run.



Remembering Andrew Richardson

The Rhode Island Bankruptcy Court dedicates this page in memory of former Chapter 7 Trustee, Andrew Richardson. Andy passed away unexpectedly on April 4th, 2014 at the young age of 61. For those who practice in bankruptcy, Andy was a strong presence here – both in and out of the courtroom. Andy had an infectious laugh and a great sense of humor. He was also a passionate litigator and a zealous advocate for his clients. Andy became a member of the Rhode Island Federal Bar in 1982 and started his legal career at Rhode Island Legal Services. Andy then joined the East Side of Providence law firm Boyajian, Harrington, Richardson and Furness as a partner. On January 15, 1992, Andy was first appointed as a Chapter 11 bankruptcy trustee in the case of Nicholas A. DePetrillo, and in 1994 was selected to serve on the Chapter 7 panel of trustees. During his more than 25 years on the Chapter 7 panel, Andy presided over 14,920 bankruptcy cases while also serving as legal counsel in 695 cases in the bankruptcy court. Some of his most memorable cases, of historical significance to Rhode Islanders, included The Newport Creamery and Rocky Point Amusement Park. At the time of his death, Andy was serving as the Treasurer of the Rhode Island Chapter of the Federal Bar Association and was a Fellow of the Rhode Island Bar Foundation. Andy was a frequent speaker on bankruptcy matters during not only the annual Rhode Island Bar Association meetings, but also at numerous bankruptcy seminars and conferences over the years. He was a generous colleague to the bankruptcy bar, assisting newcomers to the practice in better understanding and applying the bankruptcy code, rules and court procedures. Andy's untimely death reminds us all to live each day to the fullest and enjoy every moment. Rest in peace Andy.



Members of the Boyajian, Harrington, Richardson and Furness law firm on the occasion of Judge Arthur Votolato's July 31, 2012 courtroom dedication ceremony. From L – John Boyajian, Alden Harrington, Judge Votolato, Andrew Richardson, and Peter Furness.

Discovery Deadlines in Adversary Proceedings

by Bankruptcy Judge Diane Finkle

I want to take this opportunity to bring to counsel's attention the importance of the various discovery deadlines set forth in the parties' discovery plan once the plan has been approved and incorporated into an order of the Court. During the nearly 21 months I have been on the bench (hard for me to believe that much time has flown by), I am still surprised at how frequently parties simply ignore these deadlines. Discovery orders are no different from any other orders of the Court and there are serious consequences to non-compliance. On a number of occasions in cases that have been pending upwards of 3 years or more, I was advised at pre-trial conferences that despite the passage of the discovery deadlines several years ago, little if any discovery has been undertaken by the parties. In fact, the matters are no closer to being ready for trial than they were the day the adversary proceedings were commenced! Such disregard for these deadlines impedes the orderly progress of the litigation. Moreover, it subverts the purpose of the Federal Rules of Civil Procedure to assist the courts in managing their case loads and provide for the resolution of litigation in a reasonable time frame.

Because these cases pre-date my taking the bench, out of fairness to the parties, I held pre-trial conferences in several of these matters and reset the discovery deadlines after reviewing the new dates with the parties. To the extent the new deadline for completion of discovery was again disregarded and no timely motion to extend the same was filed, I have denied motions to extend other deadlines sought because discovery was not complete. The bottom line: parties disregard discovery deadlines incorporated in court orders at their peril and place their clients at risk.

To better address these issues, I will issue discovery orders separate from the discovery plans the parties file in adversary proceedings. For the most part, these orders will adopt the dates proposed by the parties, unless I feel the suggested dates seek more than the time appropriate for a particular deadline. The orders will also set the deadline for filing motions to compel discovery for the same date discovery is to be completed. In considering such motions I may extend the discovery completion date if warranted but only regarding the discrete discovery items that are the subject of a motion to compel. Finally, I will hold a preliminary pre-trial conference in all adversary proceedings approximately one month before the deadline for completion of all discovery to make sure things are in fact progressing as scheduled.

It is my hope that with the entry of these discovery orders and greater communication with the parties before the discovery completion deadline, I can address discovery issues that may arise in a proceeding earlier rather than later, and the matters will proceed efficiently and economically toward a resolution either through settlement or trial.

Social Media in Government

by Jody Venuti, Quality Assurance Specialist

In our quest to continually improve public service and provide different methods of delivering court news, the United States Bankruptcy Court for the District of Rhode Island has recently launched an official [Twitter page](#), in addition to our [Facebook](#) page. If you haven't done so already, just click the icons on our [homepage](#) and "Follow" us to access court news quickly at your fingertips, at your desktop, or on your phone. Don't forget to share this information with your staff so they can keep current on court news as we look forward to seeing new members on our social media sites. The court does not reply via Twitter or Facebook, but you're welcome to submit comments to the [Clerk of Court](#) and submit any case related, non-legal questions through the [helpdesk](#), [Live Support Online](#), or by calling the Clerk's Office directly at 401.626.3100.

Tips and Tricks

by Dina Fortes, Case Manager

- **The 2014 Bar Registration Renewal Period is now open:** June 30, 2014 is fast approaching!! June 30th is the deadline to renew your RI Federal Bar Registration. Please be advised that all attorneys who practice before the Bankruptcy Court in the District of Rhode Island must renew their Rhode Island Federal Bar membership no later than June 30, 2014. Renewal can be completed through the [United States District Court for the District of Rhode Island's website](#).
- **Telephonic Court Appearances:** Instructions for appearing telephonically can be found on our court's [website](#). [Local Rule 9074-1](#) is listed in it's entirety but pre-requisites as well as technical requirements are discussed. Take a moment to review, so that if the need arises you'll be prepared!
- **Recommended Addresses:** Not sure if the address listed was the proper address for the loss mitigation creditor? Have no fear, the court has a list of recommended bank address/and other bank information for proper service regarding Loss Mitigation cases. These can be found under the Programs and Services tab on the courts homepage. Select "Loss Mitigation Information" and click [Information re: Serving Financial Institutions \(addresses\) and links to their Loan Mod sites](#).
- **Electronically file FMC Certificates:** eFin (eFinCert) has been an immeasurable addition to the court's [website](#). eFin has made it easier for attorneys and financial management institutions to quickly file financial management certificates for debtors without logging into the court's ECF system. However, the court has noticed duplicate FMC filings and asks that attorneys check the docket prior to filing these financial management certificates in order to avoid duplicate filings.
- **Original Signatures of Debtors:** Practitioners are advised that they must have original signatures of the Debtors at the time the bankruptcy petition is filed and abide by R.I. Local Rule 5005-4(j),

Electronic Signatures and Retention of Original Signed Document by Registered User, which states:

...

(j) Electronic Signatures and Retention of Original signed Documents by Registered Users.

(1) Petitions, lists, schedules, statements, amendments, pleadings, affidavits, proofs of claim, stipulations and other documents which must contain original signatures, documents requiring verification under FRBP 1008, and unsworn declarations under 28 U.S.C. §1746, shall be filed electronically and bear "electronic signatures", including the /s/.

(2) Documents that are electronically filed and require original signatures other than that of the registered user must be maintained in paper form at least two years after the case is closed. This retention neither affects nor replaces any other retention period required by other laws or rules of procedure. The court may require the production of original documents for review by the court, a trustee, the U.S. Trustee, or any interested party.

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Coming soon! Rhode Island Local Rule Book Supplement

The Rhode Island Bankruptcy Court will soon be publishing a supplement to the 2013 Local Rule Book. This supplement contains amendments effectuated by General Orders 13-006 and 14-001.

If you purchased a 2013 R.I. Local Rule Book you should expect to receive a supplement shortly.

Miscellaneous Bankruptcy Filing Fee Changes Effective June 1, 2014

Combining the revised administrative fees with the current statutory fees, the total new filing fee for each chapter is as follows:

Chapter	Old Fee	New Fee
For filing a petition, or for filing a motion to divide a joint case, under Chapter 7 :	\$306	\$335
For filing a petition, or for filing a motion to divide a joint case, under Chapter 12 :	\$246	\$275
For filing a petition, or for filing a motion to divide a joint case, under Chapter 13 :	\$281	\$310
For filing a petition under Chapter 9, 11, or 15 :	\$1,167	\$1,717
or filing a motion to divide a joint case under Chapter 11 :	\$1,213	\$1717
For filing an adversary complaint :	\$293	\$350

Upcoming Changes at the Social Security Administration

by Susan Thurston, Clerk of Court

The Social Security Administration (SSA) has recently issued [Publication No. 05-10544](#) which contains important upcoming changes to the types of information that will no longer be available at their local offices.

Beginning on August 1, 2014, the SSA will discontinue providing Social Security number printouts. Instead, customers will be required to request a replacement Social Security card by [completing the appropriate application \[Form SS-5\]](#).

Effective October 1, 2014, the SSA will stop providing benefit verification letters in their local offices. Customers will need to either obtain these letters [on-line](#) or by calling the SSA toll free number [1-800-772-1213] and requesting a letter by mail.

RI Bankruptcy Court Opinions Now Accessible on GPO Site

You may now access Rhode Island Bankruptcy Opinions dating back to 2002 via the [United States Courts Opinions Collection](#), a project between the U.S. Government Printing Office (GPO) and the Administrative Office of the United States Courts (AOUSC) that provides public access to opinions from selected United States appellate, district, and bankruptcy courts. Once an opinion is located, all associated opinions within the same case can be accessed from the opinion > More Information page. The GPO site can also be accessed from a link on the [Opinions Page](#) of our website.

Jonathan Pincince Appointed Career Law Clerk

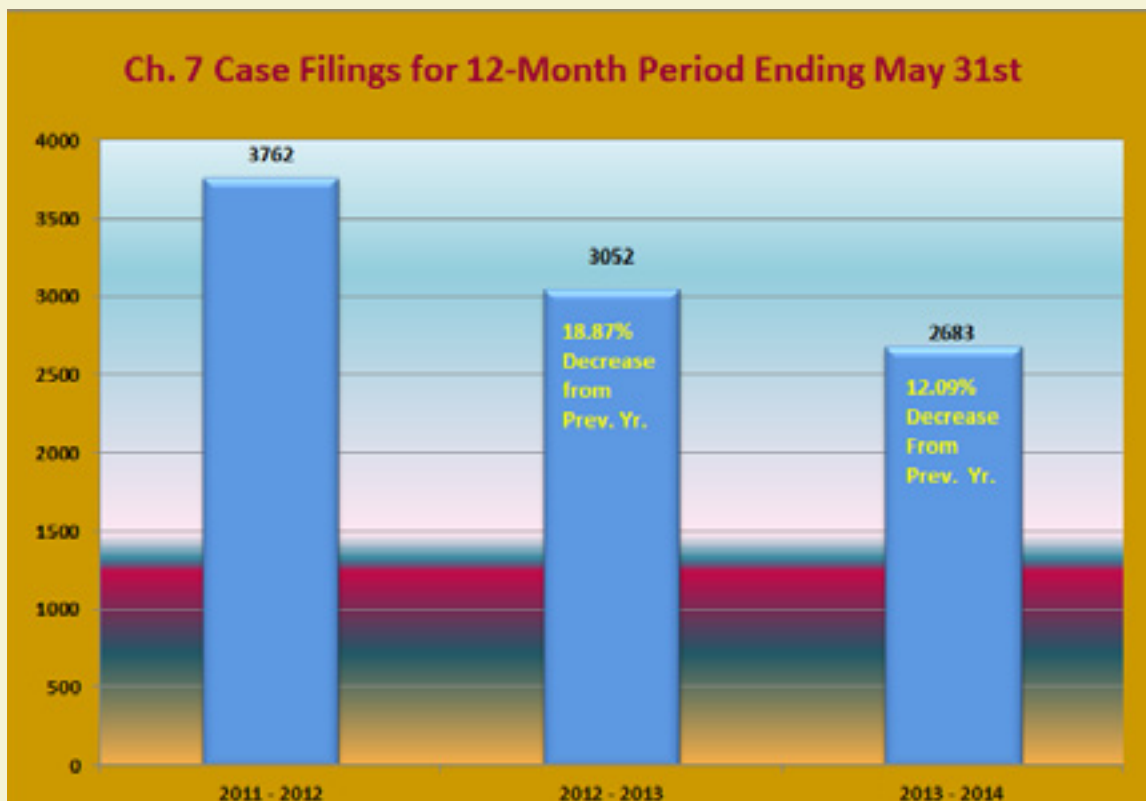
by Gail Kelleher, Deputy Clerk

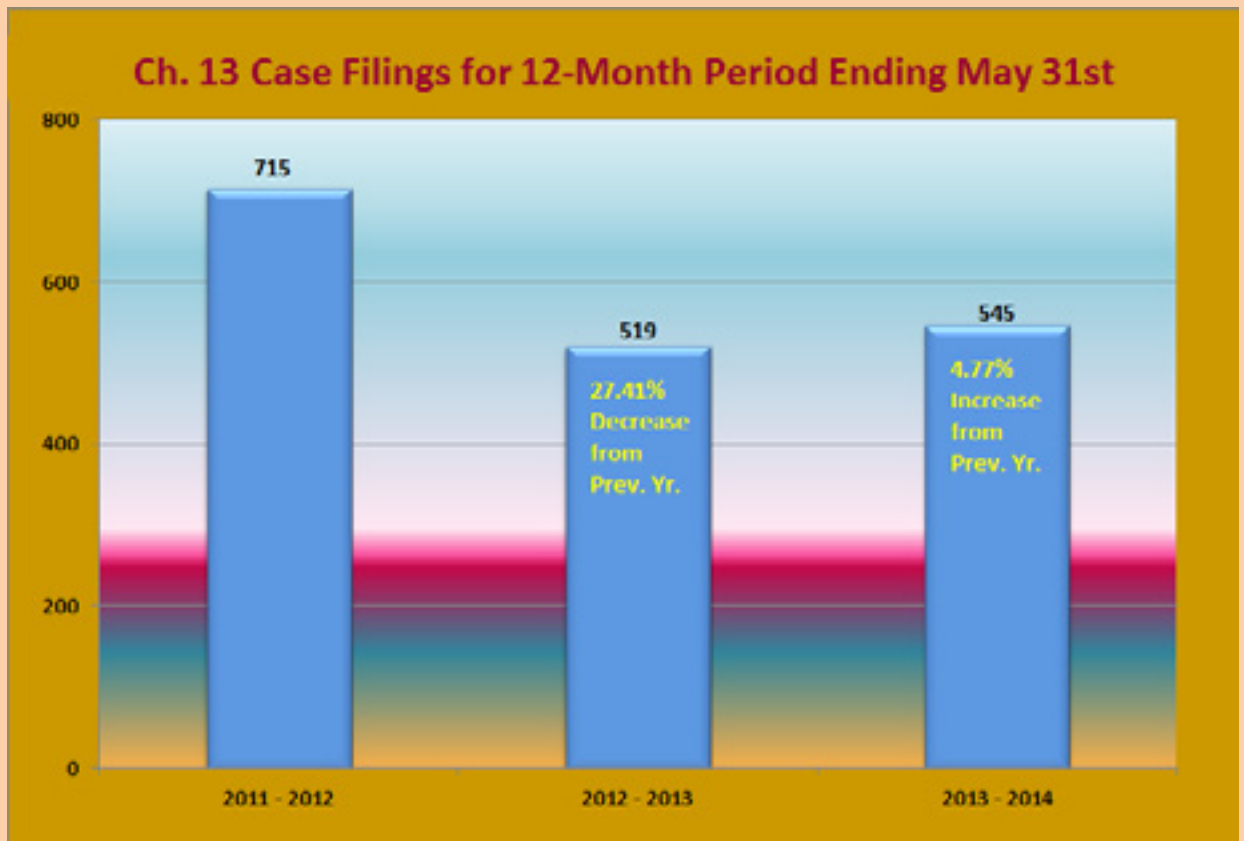
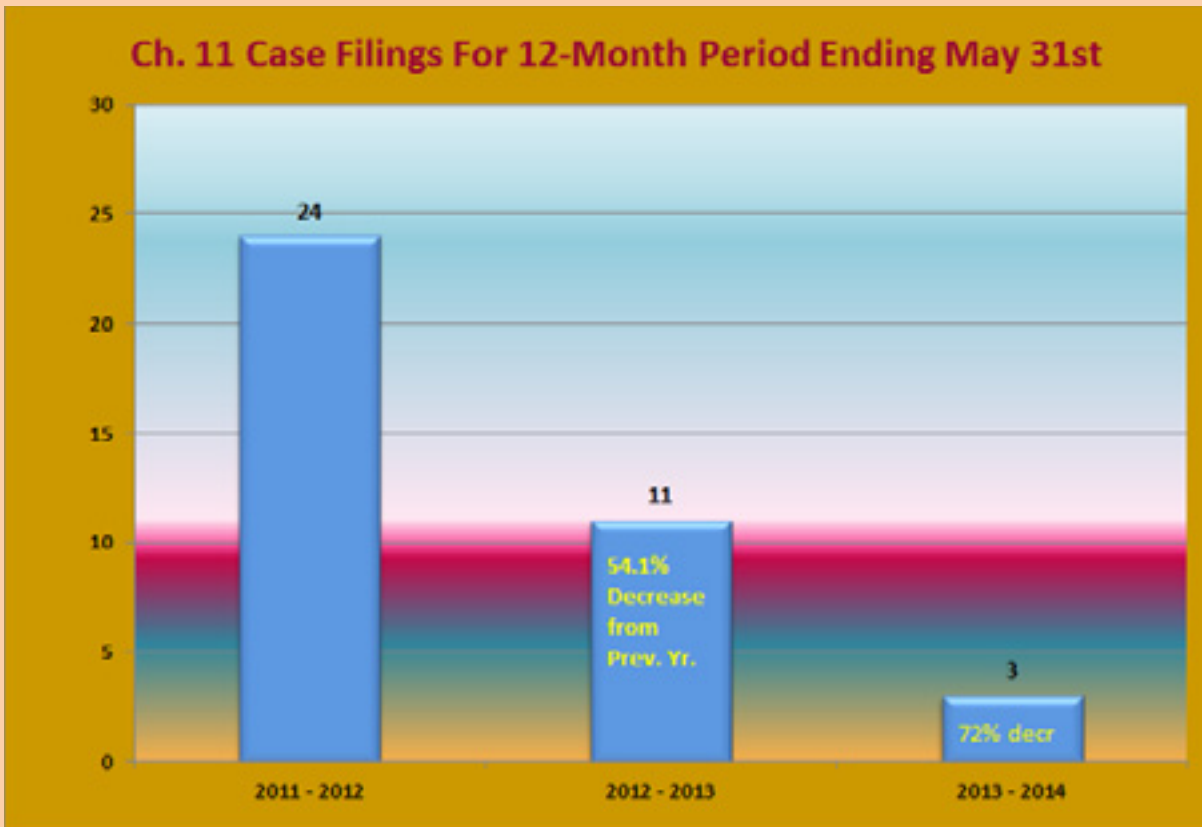
We are pleased to announce the appointment of Jonathan Pincince to the position of Career Law Clerk to the Honorable Judge Diane Finkle. Jon joined the bankruptcy court staff in August, 2013 as a term law clerk to Judge Finkle. Prior to that, Jon worked for several years in private practice, primarily as a litigator, including five years as an associate with Beal Law, LLC and as an associate with Winograd, Shine & Zacks, P.C. Jon is a 2004 graduate of Roger Williams University Law School, a 1999 graduate of Stonehill College, and a 1995 graduate of Woonsocket High School. While at Roger Williams, Jon served as Editor-in-Chief of the Law Review and as an intern law clerk for U.S. District Court Chief Judge Ernest C. Torres. In his pre-law life, Jon was a middle and high school teacher and basketball coach. He now lives in Wakefield with his wife Christine and their four children.

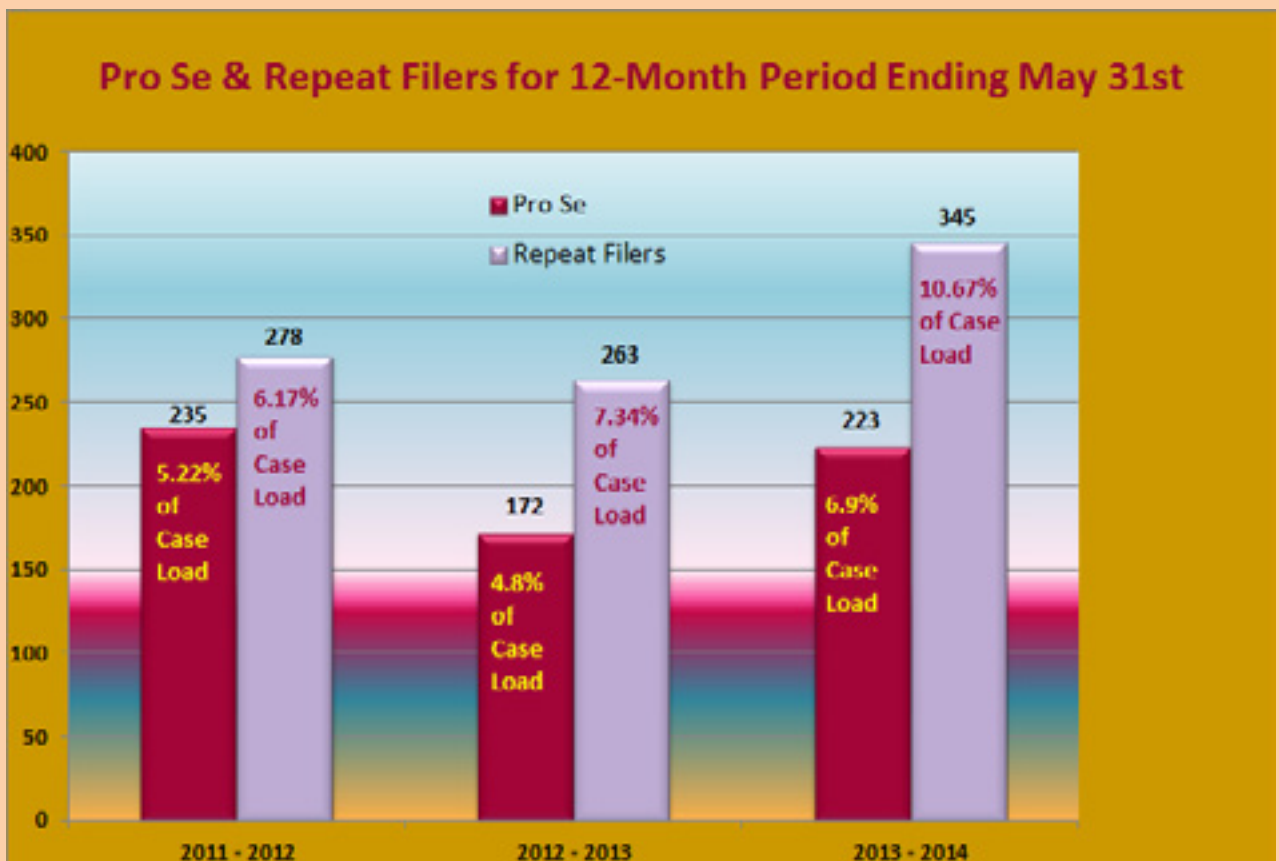
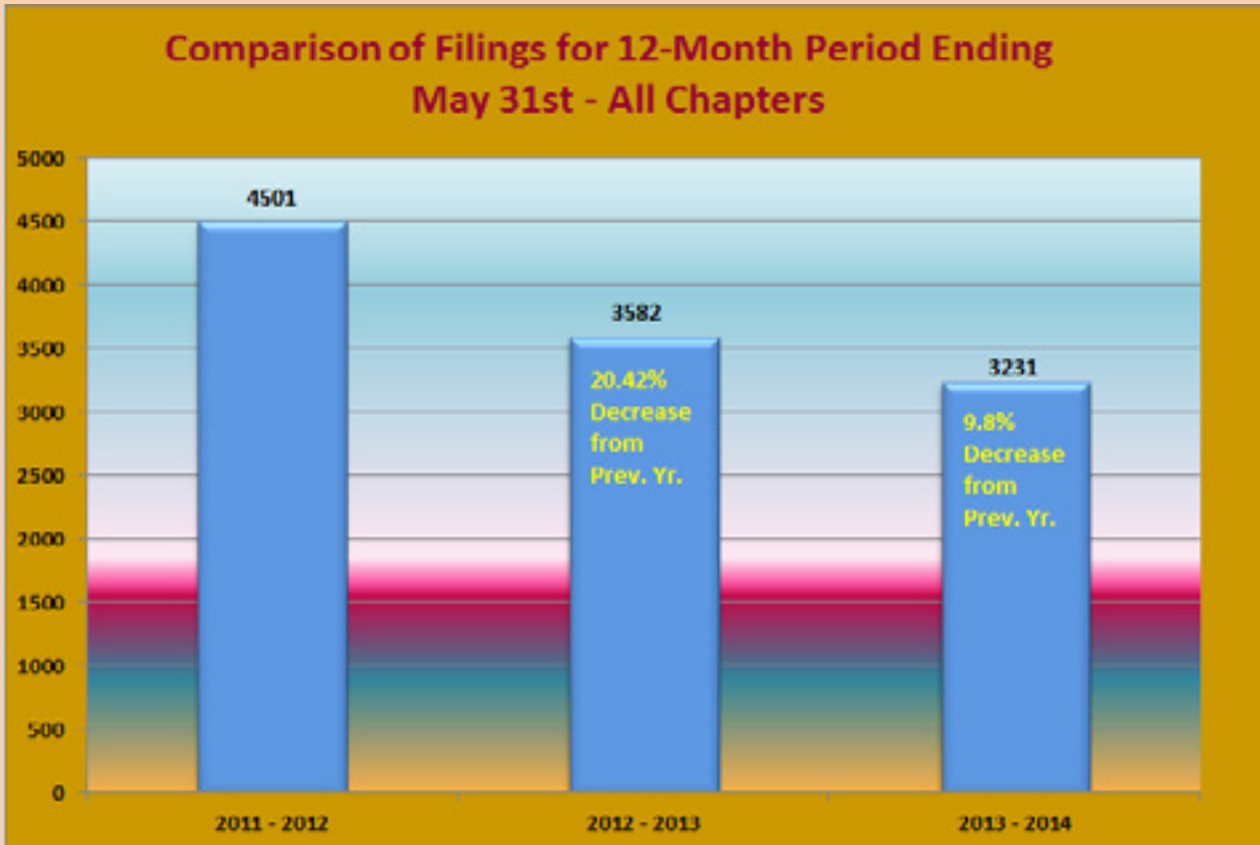


Case Filing Statistics for Period Ending May 31, 2014

by Gail Kelleher, Chief Deputy Clerk







2014 COURT HOLIDAY CLOSING DATES

Independence Day - Friday, July 4th
Labor Day - Monday, September 1st
Columbus Day - Monday, October 13th
Veterans Day - Tuesday, November 11th
Thanksgiving Day - Thursday, November 27th
Christmas Day - Thursday, December 25th

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

