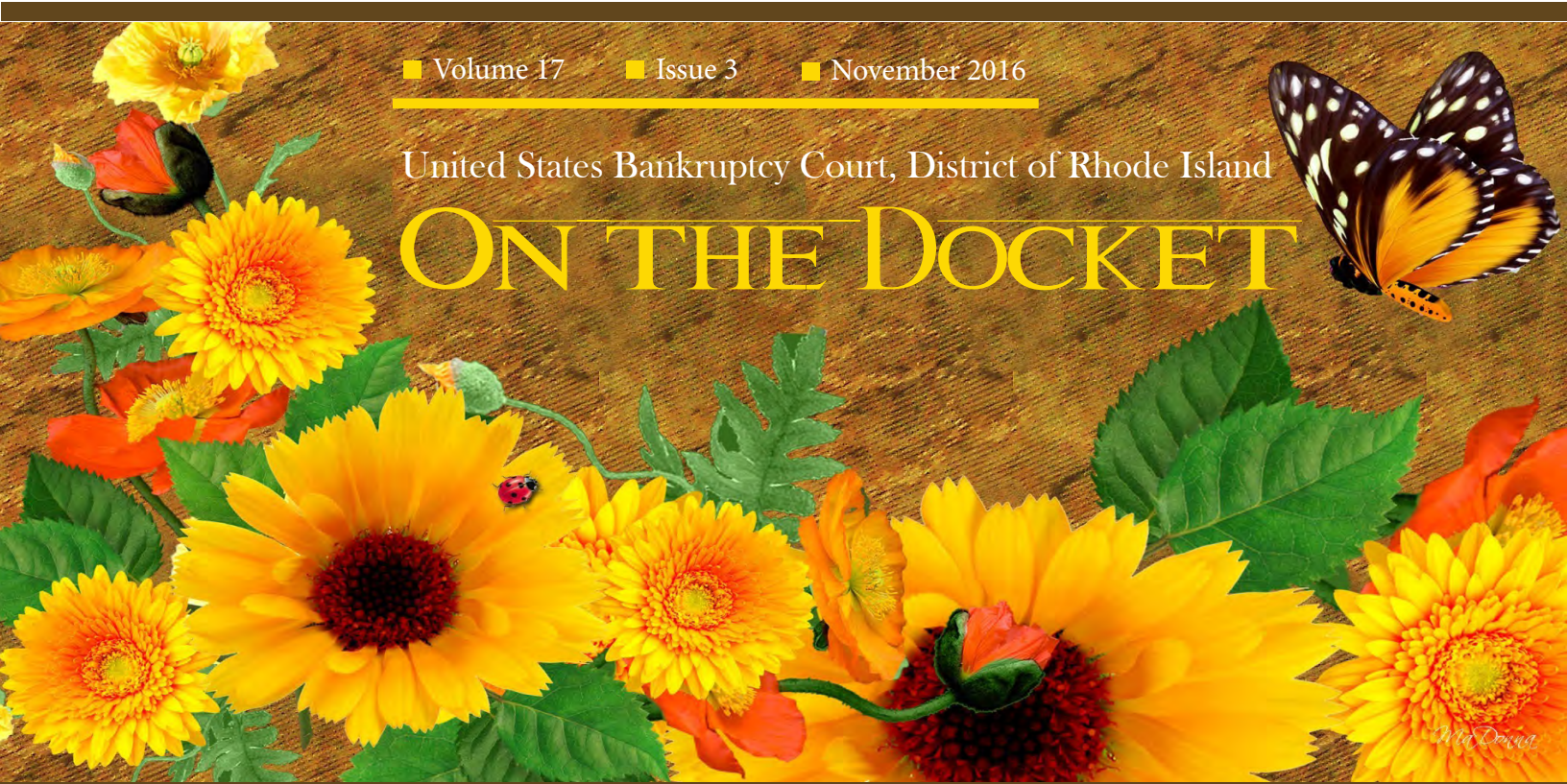


United States Bankruptcy Court, District of Rhode Island

# ON THE DOCKET



## Inner Workings: News and Advice

By: Susan M. Thurston, Clerk of Court

Fall has arrived and with it this edition of our court newsletter, *On the Docket*. Through this resource – which will transition to a twice a year publication (Spring and Fall) – we share news of national and local rule and form changes, local program initiatives, staffing updates, frequent practice problem areas and technology news.

Recently you may have noticed several announcements posted on the Court's website about comment periods for proposed amendments to the Federal Rules of Bankruptcy Procedure. One such period recently expired on October 3, 2016 and relates to proposed changes in Chapter 13 cases, mostly specifically the use of a national chapter 13 plan. A public hearing on these proposed changes was held on September 27, 2016 and now the Advisory Committee will decide whether to recommend final approval

of the amendments to Rules 3015 and 3015.1. The proposed changes could become effective on December 1, 2017, if they are approved.

The second set of proposed bankruptcy rule amendments were published for comment beginning on August 12, 2016 and runs through February 15, 2017. These include the following Bankruptcy Rules and Official Forms: 3002.1, 5005, 8002, 8006, 8011, 8013, 8015, 8016, 8017, new Rule 8018.1, 8022, 8023, and new Part VIII Appendix; and Official Forms 309F, 417A, 417C, 425A, 425B, 425C, and 426. A link to the draft of these proposed changes is provided on the Court's website under the [News and Announcements](#) column on the main page as well as under the [Rules and Procedures](#) top menu tab.

Finally, we have also posted information on our website about the  
*(continued on Page 2)*

## In This Issue

Inner Workings  
Page 1

---

6th Floor Renovations  
Page 3

---

New Intern  
Page 3

---

Bankruptcy Rule & Form  
Amendments (Eff. 10/3/2016)  
Page 4

---

Miscellaneous Fee Schedule  
Changes (Eff. 12/1/2016)  
Page 5

---

Recent Court Opinions  
Page 6

---

Court Practice Tips  
Page 6

---

Tips and Tricks  
Page 7

---

Case Filing Statistics  
Page 9

[upcoming federal bankruptcy rule changes](#) scheduled to take effect on December 1, 2016. These approaching changes fall into three main areas: (1) those addressing foreign proceedings under Chapter 15 in bankruptcy (Rules 1010, 1011, 1012 (new), 2002); (2) those known as the “Stern” Amendments (Rules 7008, 7012, 7016, 9027, and 9033); and (3) two unrelated substantive rule changes concerning chapter 13 claims noticing (Rule 3002.1) and time computation for those served electronically (Rule 9006). As a result of the upcoming change to Rule 9006(f) -- eliminating the additional 3 days to respond if served electronically -- the Court is proposing amendments to several of its local rules to incorporate this change. This includes proposed amendments to LBRs 1005-1, 2004-1, 3007-1, 3011-1 and local forms 3011-1.1 and 6005-1.1. These proposed amendments are currently out for notice and comment, and are also expected to go into effect on December 1, 2016. Assuming their adoption, it is extremely important that law firms update their form pleadings containing notice of response time language to ensure they include these new language changes. Failure to do so may result in the document being stricken from the record, requiring correction, re-filing and re-service. In addition, counsel who use the Court’s electronic filing system, and therefore receive notice of filings electronically, will need to pay particular attention to the new “electronic” deadline for responses (typically 14 days unless otherwise prescribed by rule or statute) and not rely on an additional 3 days. Filings made after the applicable electronic deadline will be treated as defective and will require the filing of a motion to file out of time with specific reasons for its lateness to be considered, see [LBR 1005-1\(e\)](#).

We certainly appreciate how demanding it can be for practitioners and support staff to stay up to date on the many national and local rule and form changes occurring annually in bankruptcy and hope that this review and the materials we have posted on our website can help in meeting these challenges.

Lastly, I wanted to announce the recent success of our employee recognition ceremony held in September. Each year, the Court recognizes the hard work and outstanding achievements of its staff and celebrates with an out of office luncheon and heartfelt recognition program. This

year, we had many outstanding accomplishments to celebrate including the office’s work in implementing the December 1, 2015 bankruptcy form changes; the creation of several new automated programs to help our pro se filers, as well as an internal committee that researched and made recommendations for implementing a pro bono clinic; the implementation of numerous technologies including improved video-conferencing, national logging service, SharePoint, upgraded network storage devices and centralization of CM/ECF. Also, we recognized several staff for their service on numerous national committees to further the administration of the bankruptcy system. The following members were recognized for their excellent customer service in the courtroom and in the operations department: Holly D’Agostino and Pam Ricciarelli. The crowning achievement of the day was the presentation of the Sustained Superior Performance award to Holly D’Agostino, Courtroom Deputy, for her more than 25 years of exceptional service to the Court. Throughout her notable career, Holly has proven to be an expert in court operations and procedures, and is to her peers, the “go to person” for rule related questions. Holly consistently demonstrates exceptional work in fulfilling her position, maintains a positive attitude, and is always willing to jump in and help wherever and whenever needed, whether on the counter, covering phones, or drafting instructions. When you see Holly in the courtroom, please extend your congratulations to her as this year’s Sustained Superior Performance award recipient.



## 6th Floor Hallway and Restroom Renovations

by Janet Descoteaux, Public Information Specialist

Building Ownership will be renovating the 6th Floor common area hallways and bathrooms beginning on Friday, November 11, 2016. The work is projected to take four to six weeks time and will require the temporary relocation of the Bankruptcy Court screening equipment to directly outside of the courtroom.

During the work period, visitors may be redirected as necessary to access the Clerk's office, Courtroom or 341 Meeting space.

While the restrooms are being renovated, use of lower level bathrooms will be required.

Thank you for your cooperation and patience during this process -- we promise it will be worth it!

## The U.S. Bankruptcy Court Welcomes a New Intern

by Pam Ricciarelli, Case Manager

This Fall, Courtney E. Altenburger has joined our staff as an Operations Intern. Courtney is in her junior year at Providence College where she is majoring in Economics with a minor in Political Science, and is actively involved as an Admission Ambassador, a Retreat Leader and Honors Mentor.

During her tenure with the Clerk's Office, she will be assisting the staff with various projects, observing court proceedings and learning about the Federal bankruptcy system process as well as the overall Federal court system. We are very happy to have Courtney with us.



Welcome  
Courtney Altenburger

# Bankruptcy Rule and Form Amendments Effective October 3, 2016

by Amy Geraghty, Operations Supervisor



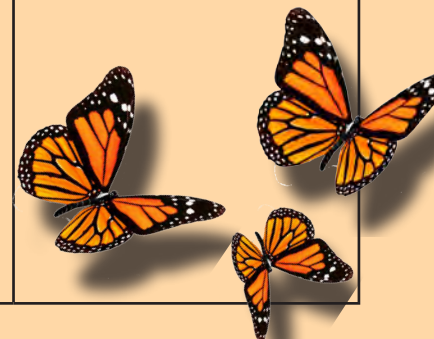
<b>Local Rule Amendments</b>	<b>Summary of Rhode Island Local Bankruptcy Rule Amendments Effective October 3, 2016</b>
<b>RULE 1007-1 LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS; ORDER TO FILE MISSING DOCUMENTS AND NOTICE OF AUTOMATIC DISMISSAL FOR NON-COMPLIANCE; NOTICE IN CHAPTER 11</b>	<p>Subdivision (b)(4) amended to implement new R.I. Local Form 1007-1.4, Motion for Waiver of Credit Counseling Briefing and/or Financial Management Course. Debtors may use this new local form to request a waiver of the credit counseling requirements and/or the financial management requirements.</p>
<b>RULE 1009-1 AMENDMENTS OF PETITIONS, LISTS, SCHEDULES AND STATEMENTS</b>	<p>Local Rule 1009-1 was amended to set forth new requirements when the debtor files an amendment to add an omitted creditor.</p> <p>Subdivision (c)(1)(B) was amended to require that the debtor serve the added creditor with a copy of the Notice to File Claims, if applicable.</p> <p>Subdivision (c)(1)(C) was amended to implement new R.I. Local Form 1009-1.1, “Notice to Added Creditors of Pending Bankruptcy and Applicable Case Deadlines and Certificate of Service”, and requires that the debtor service the added creditor with the new form.</p> <p>Subdivision (c)(1)(D) was amended to require that new R.I. Local Form 1009-1.1, “Notice to Added Creditors of Pending Bankruptcy and Applicable Case Deadlines and Certificate of Service” be filed with the Court.</p>
<b>RULE 8006-1 RECORD ON APPEAL</b>	<p>This is a technical amendment which renumbers Local Rule 8006-1 to 8009-1 to conform to the December 1, 2015 federal rule amendments.</p>

**Summary of Rhode Island Local Form Amendments  
Effective October 3, 2016**

<b>R.I. Local Form 1007-1.4</b> <b>Motion for Waiver of Credit Counseling Briefing and/or Financial Management Course.</b>  (New)	<i>New – See Amendment to Local Rule 1007-1 in rules summary chart.</i>
<b>R.I. Local Form 1009-1.1</b> <b>Notice to Added Creditors of Pending Bankruptcy and Applicable Case Deadlines and Certificate of Service</b>	<i>New – See Amendment to Local Rule 1009-1 in rules summary chart.</i>

**Bankruptcy Court Miscellaneous Fee Schedule (28 U.S.C. § 1930) Changes  
Effective December 1, 2016**

Item No.	Description	Current Fee	Approved New Fee
2	For exemplification of any document	\$21	\$22
3	For reproduction of an audio recording of a court proceeding	\$30	\$31
4	For filing an amendment to the debtor’s schedule of creditors, lists of creditors, or mailing list. . .	\$30	\$31
5	For conducting a search of the bankruptcy court records. . .	\$30	\$31
7	For filing any document that is not related to a pending case or proceeding. . .	\$46	\$47
19	For filing the following motions. . . <ul style="list-style-type: none"> <li>• To terminate, annul, modify or condition the automatic stay;</li> <li>• To compel the abandonment of property of the estate. . .</li> <li>• To withdraw the reference of a case or proceeding. . .</li> <li>• To sell property of the estate free and clear of liens under [11 U.S.C. § 363(f)].</li> </ul>	\$176	\$181



## Recent Court Opinions and Noteworthy Orders

by Louisa Gibbs and Jon Pincince, Law Clerks

Here is a short digest of some noteworthy opinions and orders from the Court. As always, many opinions and orders are available on the Court's website.

**Harrington, U.S. Trustee v. McKenna, A.P. No. 16-01014 (In re Sanchez, BK No. 16-10130) (Chapter 7) (September 7, 2016):** The Court denied the defendant's motion to dismiss, holding that the plaintiff retained standing pursuant to 11 U.S.C. § 307 to challenge the defendant's role as a bankruptcy petition preparer because the plaintiff filed the proceeding before the underlying bankruptcy case was dismissed.

**Fratantuono v. Fundakowski, A.P. No. 16-01003 (In re Fundakowski, BK No. 15-12227) (Chapter 7) (September 12, 2016):** The Court granted in part and denied in part the plaintiffs' motion for default judgment, holding that while the amended complaint alleged a legally valid claim pursuant to 11 U.S.C. § 523(a)(2)(A), it did not do so under § 523(a)(4) because it failed to allege that property in the defendant's possession belonged to the plaintiffs and was misappropriated by the defendant.

**In re Rougier, BK No. 16-10571 (Chapter 13) (September 16, 2016):** The Court overruled a creditor's objection to confirmation of a chapter 13 plan where the plan proposed to strip off the creditor's wholly unsecured second mortgage and the creditor sought to waive pre-petition interest and costs associated with its first mortgage in order to reduce its first mortgage claim to below the value of the property and render its second mortgage claim secured.

## Bankruptcy Court Practice Tips

by Chambers Staff

*Small Business Chapter 11 Disclosure Statements, Plans, and Hearings*

- There is a link on the Court's website ([www.rib.uscourts.gov](http://www.rib.uscourts.gov)), under Forms / Official Bankruptcy Forms, to the United States Courts Bankruptcy Forms website, which provides a form Disclosure Statement in Small Business Case Under Chapter 11 and a form Plan of Reorganization in Small Business Case Under Chapter 11. *See* Forms B25A and B25B. These useful forms include everything required by the Code and can be time savers, provided they are tailored to the particular case.
- In a small business case, upon request, the Court may permit the debtor to proceed without a separate disclosure statement if it finds that the plan itself contains adequate information that otherwise would be set forth in a disclosure statement. *See* 11 U.S.C. § 1125(f)(1). In addition, upon request, the hearings on approval of a disclosure statement and confirmation of a plan can be combined. *See* § 1125(f)(3).

*Loss Mitigation – First Status Hearing*

- The Court expects that prior to the first status hearing on loss mitigation, the parties will have complied with the initial deadlines of the loss mitigation program by the debtor(s) having submitted a complete loan modification application to the creditor on forms provided by the creditor and the creditor having completed its preliminary review of the application. If these deadlines have not been met, the parties should expect the Court to set expedited deadlines for completion of such requirements.



## Tips and Tricks

by Jen Davis, Case Manager

### 1. Supplemental Schedules I and J vs. Amended Schedules I and J:

**Supplemental Schedules:** Effective December 1, 2013, filers may submit supplements to schedules I and J as a method for capturing additional information regarding a debtor(s) post-petition income and expenses as of a specific date (e.g., prior to chapter 13 confirmation hearing) for purposes of analysis or potential modification.

This supplemental information is intended to inform, not amend, previously filed schedules. (The filer would use the “amendment” check box instead, if the purpose is to correct information on the original filing of the form).

**Amended Schedules:** Pursuant to [LBR 1009-1\(a\)](#), the amended document shall be marked, “Amended” and shall either: (1) clearly identify the amendment through the use of highlighting emphasis such as: asterisks, underlined, italics or bold to identify the added or changed information, or (2) include all of the items from the original document along with the amended items and include an addendum document listing only the information that has been amended on the applicable schedule/statement/summary/means test form. If filed electronically, the addendum shall be included as an attachment to the amended schedule event.

### 2. Filing Documents on behalf of Debtor and Joint Debtor:

When filing documents on behalf of a Debtor and Joint Debtor, you may submit one event choosing both filers. Ex: Credit Counseling Certificates. Instead of filing twice, once for each debtor, you may submit both Certificates in one event choosing both debtors as party filers.

#### Helpful reminders!!!

We have two very valuable tools on our website for attorneys and their staff:

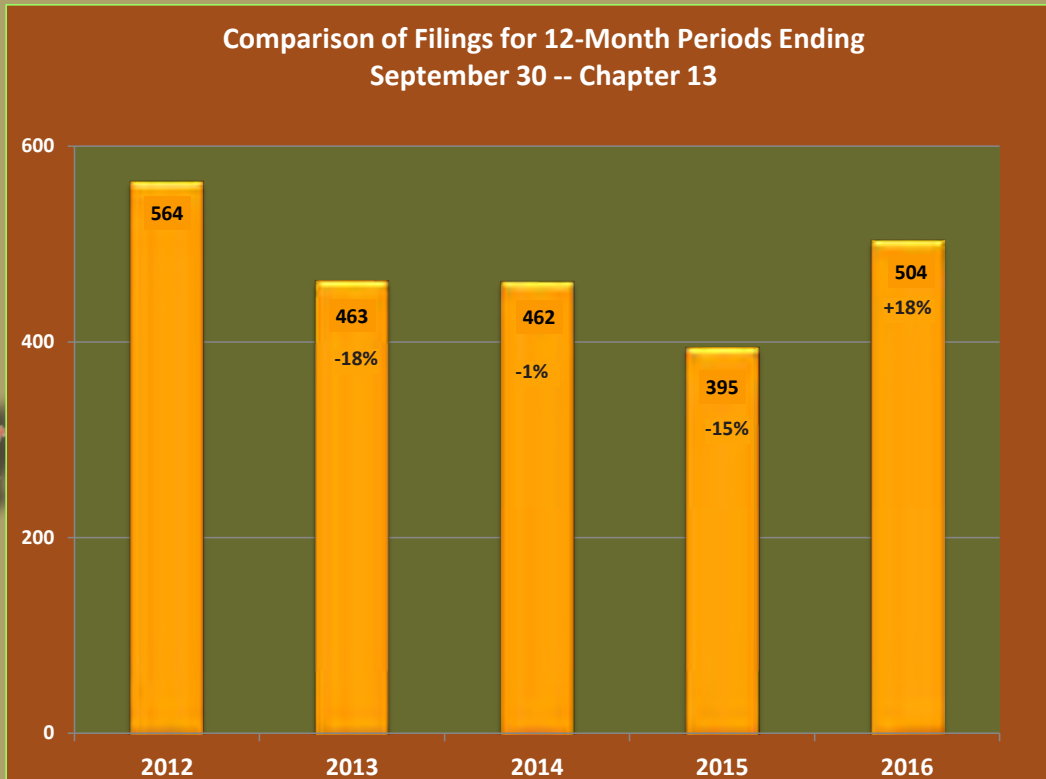
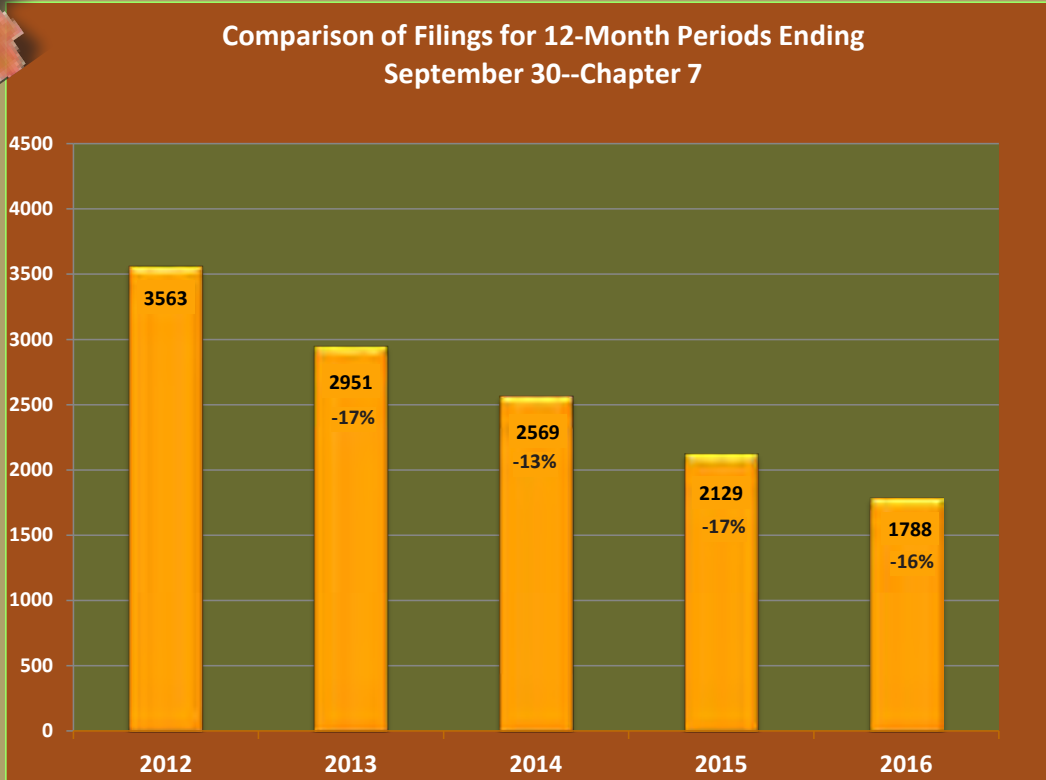
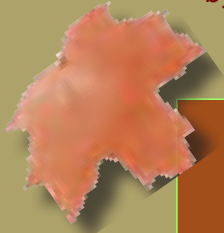
The [Electronic Filer User Manual](#) (EFUM) contains step by step instructions for registered ECF users to file documents with the court in its [Electronic Filing System](#) (ECF). The manual is divided by subject matter type and includes such areas as adversary proceedings, appeals, case opening, claims, different filing chapters, loss mitigation, motions and applications, reports, etc. In addition, the manual contains links to the court's ECF training modules, flowcharts, as well as links to the fee schedule, local rules and forms, training database, bankruptcy code and numerous other resources. We highly encourage registered users to consult the EFUM for their filing questions and to notify the Clerk's office of any topics which should be added.

The Attorney Handbook: [This handbook](#) is intended to provide the public and the bar of the United States Bankruptcy Court for the District of Rhode Island with information needed to conduct business with the court. We hope that this reference guide will answer any questions that you may have concerning such areas as preparation of documents, electronic filing, clerk's office deficiency processes, court contact information and basic court procedures. We believe that this handbook, when used in conjunction with the U.S. Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules and Forms of the Bankruptcy Court for the District of Rhode Island and the Electronic Filer User Manual will not only be beneficial to those already familiar with the court, but also to the paralegals, administrative assistants, and pro se litigants who have had little or no contact with the federal court system. Although we have made every effort to provide the most current and accurate information possible, if there is any conflict between this handbook and the Local or Federal Rules of Bankruptcy Procedure, then the Rules shall govern.

\*\*\*Please remember to encourage debtors to sign up for DeBN - Any debtor can request to receive court notices and orders by email rather than by U.S. mail. This free program is known as “Debtor Electronic Bankruptcy Noticing” (DeBN), and information and sign-up forms are available on our website. Please remember to share this information with your clients so they can receive court orders and notices quickly\*\*\*.

# Case Filing Statistics for Period Ending September, 2016

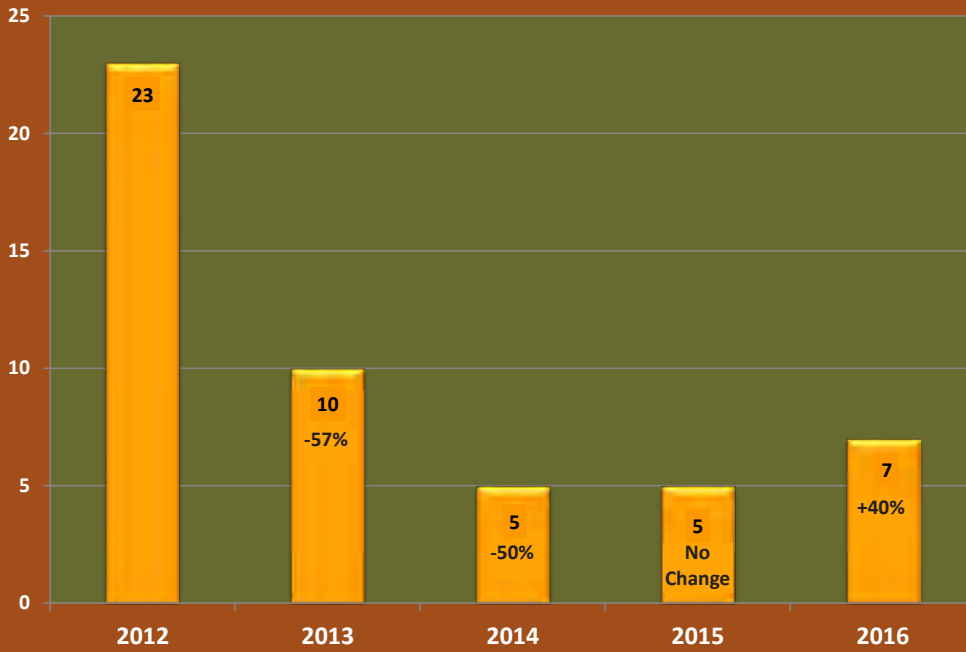
by Jody Venuti, IT Specialist







Comparison of Filings for 12-Month Periods Ending September 30 -- Chapter 11



Comparison of Filings for 12-Month Periods Ending September 30--All Chapters



## 2016 COURT HOLIDAY CLOSING DATES

Veterans Day - Friday, November 11th

Thanksgiving Day - Thursday, November 24th

Christmas Day (observed) - Monday, December 26th

## 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](mailto: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](http://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.

United States Bankruptcy Court  
District of Rhode Island  
380 Westminster Street  
Providence, RI 02903  
Phone: (401) 626-3100  
Fax: (401) 626-3150  
Website: [www.rib.uscourts.gov](http://www.rib.uscourts.gov)

