

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 another edition of our court newsletter, *On the Docket*. As I mentioned in our Spring edition, the Court, with assistance from its Attorney Advisory Committee, underwent an extensive local rule and form review and the proposed changes were noticed out for comment over the summer. The majority of the rule changes went into effect on September 9, 2013, and two additional rule amendments (1007-1 and 9010-1) went into effect on October 1, 2013. See [pages 4 and 5](#) infra, for a detailed discussion of these recent procedural changes. A special thank you to our volunteer attorneys who provided invaluable assistance to the Court throughout this lengthy process: Lisa Geremia, Patricia Antonelli, Tom Carlotto, Janet Goldman, Chris Lefebvre, Gary Donahue, Sandra Nicholls and Stacy Ferrara.

In August, Judge Finkle welcomed two new law clerks to her chambers – Jonathan Pincince and Julianne Fitzpatrick. Jonathan was formerly an associate attorney with Beal Law in Providence, Rhode Island, and Julianne just completed a one year clerkship with Bankruptcy Judge William Hillman in Boston. Please make a point to introduce yourselves to Jonathan and Julianne when you see them in the courtroom.

The afternoon of Thursday, September 19<sup>th</sup> marked a historical event at the Court as we hosted our first ever portrait unveiling ceremony for retired Bankruptcy Judge Arthur N. Votolato. More than one hundred guests attended the special court session conducted by Bankruptcy Judge Diane Finkle, and

included many federal and state judges, members of the bar, court staff and family and friends to commemorate Judge Votolato's 44 year history with the court. Guest speakers included Circuit Judge Bruce Selya, District Judge William Smith and attorney Matthew McGowan. The portrait was commissioned by members of the Bankruptcy Bar and was presented by attorneys Andrew Richardson, Joe DiOrio and William Delaney. Local University of Rhode Island Professor and Artist William Klenk painted the portrait, which beautifully depicts Judge Votolato in his distinctive blue blazer as he never wore a judicial robe ([see page 8](#)). The portrait will be displayed behind the court recorder bench and will be visible for all to enjoy.

Finally, I wanted to share with our readers the Court's plans to renew our leasehold at The Federal Center which will also involve some major construction work anticipated to commence later this year or early 2014. For the most part these tenant improvements should not interfere with court operations, but will cause disruption in the clerk's office and chambers. Bankruptcy Court space will be updated throughout with new ceilings and lighting fixtures, updated bathroom and kitchen for clerk's office and chambers, and a facelift of many other spaces, including the clerk's office public area and intake section. While it is never easy to process work through such disruptive situations, we will use creative solutions to mitigate the disturbance and look forward to an updated working space after having "lived" for more than 30 years in this building.

# 19th Annual Employee Recognition Ceremony

by Gail Kelleher, Chief Deputy Clerk

The Court celebrated the end of another year of its service to the public, and recognized the individual contributions of staff members. Highlights of some of the exceptional work performed included implementation of:

- Electronic calendar for chambers;
- New financial system (JFinsys);
- Training Management system;
- New Time & Attendance program (iLeave); and
- Application & Server Virtualization<sup>1</sup>

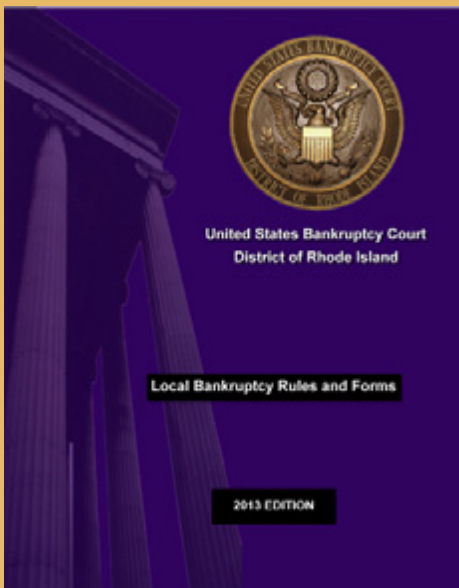
Several staff reached longevity milestones: Case Manager Pam Ricciarelli completed her fifth year of service, and two members of the automation department celebrated their employment with the court: Automation Specialist Steve Stricklett (10 years), and Information Systems Manager Craig Balme (20 years).

Judge Finkle was recognized for her work (with the help of the Attorney Advisory Committee) improving the Court's loss mitigation program, which resulted in a more efficient and accountable process for both debtors and creditors. Clerk of Court, Susan Thurston was noted for her work in launching JShare – a national program which allows courts to advertise and request administrative and operational needs, matching providers and recipients from other courts.

Each year, one person is selected by the staff to receive the Court's Sustained Superior Performance award. For the first time since the program's inception, this award was received by an employee for a second time. Jody Venuti first received this award in 2006. Her work ethic and enthusiasm have not changed since then, but demands on her time and the knowledge required for exceptional performance have intensified in order to continue to meet the expectations of an automated society and a resource-reduced Court. Jody accepts the challenge, nails it, and looks for more! We know you will join us in applauding Jody Venuti as the 2013 winner of the Sustained Superior Performance award.



<sup>1</sup> See related article on [page 7](#), "Being Good Custodians"



## Local Rule Books for Sale

By Amy Geraghty-Seale, Operations Supervisor

On October 28, 2013, the 2013 Edition of the R.I. Bankruptcy Rule book will be on sale at the Clerk's Office for \$16.00 per copy. Books may be preordered and either picked up at the Clerk's Office or mailed after October 28th by completing the order form and returning it to Court.

In addition, Local Rule books can be conveniently ordered through our on-line Local Rule Book Store accessed from the Rhode Island Bankruptcy Court's website.

All book store, fax, or phone-in orders require a Federal Express account number to cover shipping costs.

## **New in ECF!**

by Jody Venuti, Quality Assurance Specialist

### **ACH Payments Now Available**

Filers paying filing fees through ECF and pay.gov now have the option to make payments by bank account debit transactions (Automated Clearing House). When paying ECF fees, after confirming the fees you intend to pay, you will be prompted for payment information to process the selected fees by credit card or by bank account debit (ACH).

### **Coming Soon! Electronic Proof of Claim (ePOC) Program**

The Electronic Proof of Claim (ePOC) is a program designed to work with ECF to streamline claims processing by allowing creditors to file a claim, amend a claim, and withdraw a claim via the internet without being an ECF registered user. The ePOC

program will automatically prepare the official Proof of Claim (B10) form based upon the information the user enters into the program. There is no need to upload a proof of claim form, as it will be created for you. Proof of Claims for all chapters may be filed electronically and the name and complete address of the creditor must appear on the claim form. If an attorney is filing the claim on behalf of a creditor, the attorney should also enter his/her name and address. The name and title, if any, of the person authorized to file the claim is required when filing the claim. After submitting the electronic proof of claim, the claim number will display and will be file stamped as of the entry date. The claim will immediately appear on the claims register and the trustee will receive automatic notification of the claim being filed. The Court hopes to have the program operational by the end of the year.

## **Welcome New Law Clerks**



Julianne Fitzpatrick



Jonathan Pincince

# Federal Rule and Form Amendments Effective December 1, 2013

by Amy Geraghty-Seale, Operations Supervisor

The following federal rules and forms will be affected:

Bankruptcy Rules	Bankruptcy Forms
1007	3A
4004	3B
5009	6I
9006	6J
9013	6 Summary
9014	23
	27

The updated versions of the scheduled federal form changes will be posted on December 1, 2013 at: <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

Details of the federal rule changes can be found at: <http://www.gpo.gov/fdsys/pkg/CDOC-113hdoc28/pdf/CDOC-113hdoc28.pdf>

## Delegation of Noticing Responsibilities

by Amy Geraghty-Seale, Operations Supervisor

The Rhode Island Bankruptcy Court is continuing its effort to comply with the Administrative Office of US Courts' directive to delegate noticing to filers and other parties where appropriate. As a result, on August 1, 2013, the Court implemented its second wave of delegations which require case trustees to notice out the following documents:

- Notice to Creditors to File a Proof of Claim due to Recovery of Assets;
- Notice of Bar Date Fixing Time for Filing Claims Against Surplus Funds;
- Notice of Final Report and Commission Request

In addition, the Court recently implemented a new procedure for noticing dismissal orders. Upon entry of an order dismissing a case, the court mails the order to the debtor and a Notice of Electronic Filing [NEF] is generated for electronic case participants. Upon expiration of the appeal deadline, if the dismissal has not been vacated, the Court mails a Notice of Dismissal to all creditors. This noticing change creates a substantial savings as cases are often dismissed for failure to comply with Court orders, [most commonly to file schedules or pay installments] and later vacated when the debtor complies.



## Tips and Tricks

by Dina Fortes, Case Manager

- Local Bankruptcy Rule [1005-1\(d\)](#) language must be on all motions with the exception of the Motion to Extend Time. If [LBR 1005-1\(d\)](#) language is not included in your motion it will be terminated by a "Corrective Action Required" event and the filer will be required to re-file the document. **DO NOT** include the 1005-1(d) language in responsive pleadings.
- Objections to claims must conform to [LBR 3007-1](#).
- When using the event "Debtor(s) Notice of Updated Creditor's Address" to update an address after receiving a notice from the Bankruptcy Noticing Center that the address used was undeliverable, the event should be linked to the entry of the document that was returned. (For example if the undeliverable document was the 341 notice, link the "Debtor(s) Notice of Updated Creditors Address" to the 341 meeting entry, not the petition or the bnc certificate of mailing entry.)
- Upon the entry of an Order Granting a Motion to Continue the Confirmation Hearing, the movant is required to serve the continued hearing notice on all parties and creditors within two business days and file a certificate of service with the court evidencing same.
- Pursuant to LBR [1009-1\(a\)](#), amendments must clearly state in bold print that it is an Amendment, and the amended information must be underlined or in italics to identify the added or changed provisions.

# Notice of Change in Clerk's Office Procedure for Processing Defective Filings

by Amy Geraghty-Seale, Operations Supervisor



Effective Monday, July 15, 2013, the Clerk's office changed its procedures for managing defective filings in order to streamline the process. These modifications involved event name changes, docket text changes and noticing changes in three categories:

1. Minor Electronic Case Filing (ECF) errors [incorrect party filer; incorrect linkage] will be corrected by the Clerk's office and, if the Court deems it necessary, a text only docket entry, "Corrective Action Taken" may be placed on the docket to reflect the correction. No further action will be required by the filer. ECF notice via Notice of Electronic Filing (NEF) will be given to electronic filing parties only; no paper notice will issue. If the Court finds that a particular filer is making repeated errors of this type, the filer will be required to attend a remedial training class in order to continue using the ECF system.
2. Major ECF errors [missing signatures, improper service, wrong event used] will no longer be stricken by court order. Instead, the document will be terminated and a text only entry, "Corrective Action Required" will be entered on the docket. This entry will identify the deficiency, the solution to correct the deficiency, and a notation that no further action on the document will be taken by the Court. Unless the filer is pro se or not an efiler, notice will be given via NEF to electronic filing parties only and no paper notice will be sent.
3. Filing errors related to fee-based pleadings and special matters [voluntary petitions, appeals, chapter 13 plans] will not change from current practice. The Clerk's office will continue to issue a Notice of Defective Pleading with a deadline to correct the deficiency and if the filer fails to timely comply with the Notice, an order will enter striking the underlying document.



## Recently Adopted Local Rules

by Amy Geraghty-Seale, Operations Supervisor

On October 1, 2013, two local rule amendments went into effect:

The first amendment was to [Local Rule 1007-1\(b\)\(2\)](#), LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS; ORDER TO FILE MISSING DOCUMENTS AND NOTICE OF AUTOMATIC DISMISSAL FOR NON-COMPLIANCE; NOTICE IN CHAPTER 11, which now requires attorneys filing new bankruptcy petitions to file the Statement of Social Security Number(s) (Official Form B21) as a separate *restricted* event in ECF immediately upon completion of the filing of the petition. This private event ensures that only court personnel have access to the debtor's full social security number. Failure to file the Statement of Social Security will result in the issuance of a 7 Day Order to File Missing Documents and Notice of Automatic Dismissal for Non-Compliance.

Amended B21 Statements should be filed using the *restricted* event, **AMENDED Statement of Social Security Number(s) (Official Form B21)**. The filing attorney should continue to retain the original **Statement of Social Security Number(s) (Official Form B21)** for the prescribed period of time pursuant to [LBR 5005-4](#).

The second October 1<sup>st</sup> amendment removes language from [Local Rule 9010-1](#), which required pro hac vice filers to make checks payable to the "Bar Fund". This change was to coincide with the Rhode Island District Courts conversion to pay.gov on October 1, 2013. Due to unforeseen delays, conversion to Pay.gov has not been implemented and filers should continue to make checks payable to the "Bar Fund" until further notice.





## **New Fiscal Year Brings Changes to Court Personnel**

by Gail Kelleher, Chief Deputy Clerk

October 1<sup>st</sup> began the new fiscal year for the judiciary, and like recent years, we've continued a melancholy trend of being forced to say good-bye to staff due to budget cuts. Two staff members left government service in September: Sam Nogueras, Court Technology Specialist and Michelle McCurdy, Data Quality Analyst.

Sam came to us from the private sector on January 7, 2008. His expertise was in the audio field, giving him an advantage over the other candidates for the Electronic Court Recorder Operator (ECRO) position. In addition to managing all the electronics in the courtroom, Sam was the Automation Trainer, webmaster for both the internal and external websites, and a volunteer CARE presenter. For those of you unfamiliar with CARE, it was the court-run program which delivered financial education to high school students on responsible credit card use. Sam and other court staff teamed up with volunteer attorneys to present the program and by all accounts, nobody did a better job connecting with those students than Sam. His will be big shoes to fill – we wish him and his young family well.

Michelle joined the Court as a temporary, part-time employee on June 2, 1980 – she was not yet 20 years old! She began as a case manager, eventually advancing to Operations Supervisor, and then transitioning to her current position of Data Quality Analyst. Michelle excelled in this position: no issue was too complicated or problem too convoluted for her to unravel. She has been recognized often for being a resource to the operations team, with an almost encyclopedic recall of court procedures. Michelle analyzed both internal and external errors, offering suggestions to reduce or eliminate them. She used these occasions as teachable moments to staff, who benefitted from her decades of experience with the Court.

Throughout her long career, we've relied on Michelle's expertise and valued her point of view countless times when making critical decisions regarding operations, procedures, or special projects. She continually contributed to court initiatives such as conversion to electronic filing and attorney training, the massive procedural changes required by the passing of the 2005 bankruptcy legislation, and the transition to a new bankruptcy judge and chambers staff. In addition to other recognition, Michelle was honored by the Federal Executive Council and named Administrative Employee of the Year for her work in implementing an electronic training and registration process for external users to access ECF. Ever responsible, Michelle documented her procedures meticulously as retirement neared, preparing us for the day when we would no longer be able to use her wealth of knowledge and experience.

Yes, we'll miss Michelle's contributions to the office. More importantly, we will miss her infectious laugh, her quick wit, and her dear friendship. Hasta la vista, Henny!<sup>1</sup>

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<sup>1</sup> Hasta la vista, baby (meaning "See you later"), was the catch phrase associated with Arnold Schwarzenegger's title character from the 1991 film: Terminator 2: Judgment Day. The real trivia here is that "Henny" was Michelle's nickname, a nod to the great [Henry Youngman](#) and Michelle's incomparable sense of humor!

# Metadata Within Your Documents

by Stephen Stricklett, Automation Specialist

Metadata\* is information that is kept within a file that does not get printed or displayed but can be accessed if the document isn't sanitized prior to uploading or sending.

Some examples of metadata are:

- the author of the document
- the file description/name
- location of the file on your pc; and
- dates of past revisions on the document

Note: \*This is not the actual content of the PDF but is the information collected by the program and referenced in the properties of the document.

This information is collected by your software to help make the document more useful for the user, but this could pose a security risk outside of your office. Once the document is available outside of your office, access to this metadata is already out of your control.

This can happen to a pdf, Word and WordPerfect documents. Before one of these types of documents leave your office (such as uploading a pdf in CM/ECF), you should sanitize the document. This process removes any sensitive or office related information that the document may contain.

There are several methods that can be adopted to remove revision metadata and file description metadata. In most word processing applications the **"save as"** command will create a new clean file removing revision metadata (results may vary for each software version). You can also use the pdf printer (Distiller) to create a clean new file. In addition, there are metadata removal tools available that are provided by word processing vendors and third parties.

All PDF documents should be sanitized before docketing them in CM/ECF. To do this you can use the tool built into the full version of Adobe Acrobat. Open the document you wish to sanitize and then go to "Tools>Protection>Sanitize Document" to ensure that the document does not contain metadata, see below:

Step	Action
1	Open the PDF
2	Apply your markup/edit on the document
3	Flatten the document: Tools/Add-On Tools/Flatten Pages - Choose "All"
4	<b>Sanitize</b> the document: Tools/Protection/ <b>Sanitize Document</b>
5	Save the file as a PDF: File/Save As/PDF

You can verify the document is clean of any metadata by opening the newly sanitized pdf document by going to "File>Properties". When the "Document Properties" window opens, go to the "Description" tab and click on the "Additional Metadata" button. In the left pane of this window, click on the "Description" and the "Advanced" view to see if any information is in the right pane. If there is no information there, your document is now sanitized and free of any metadata that it previously held.



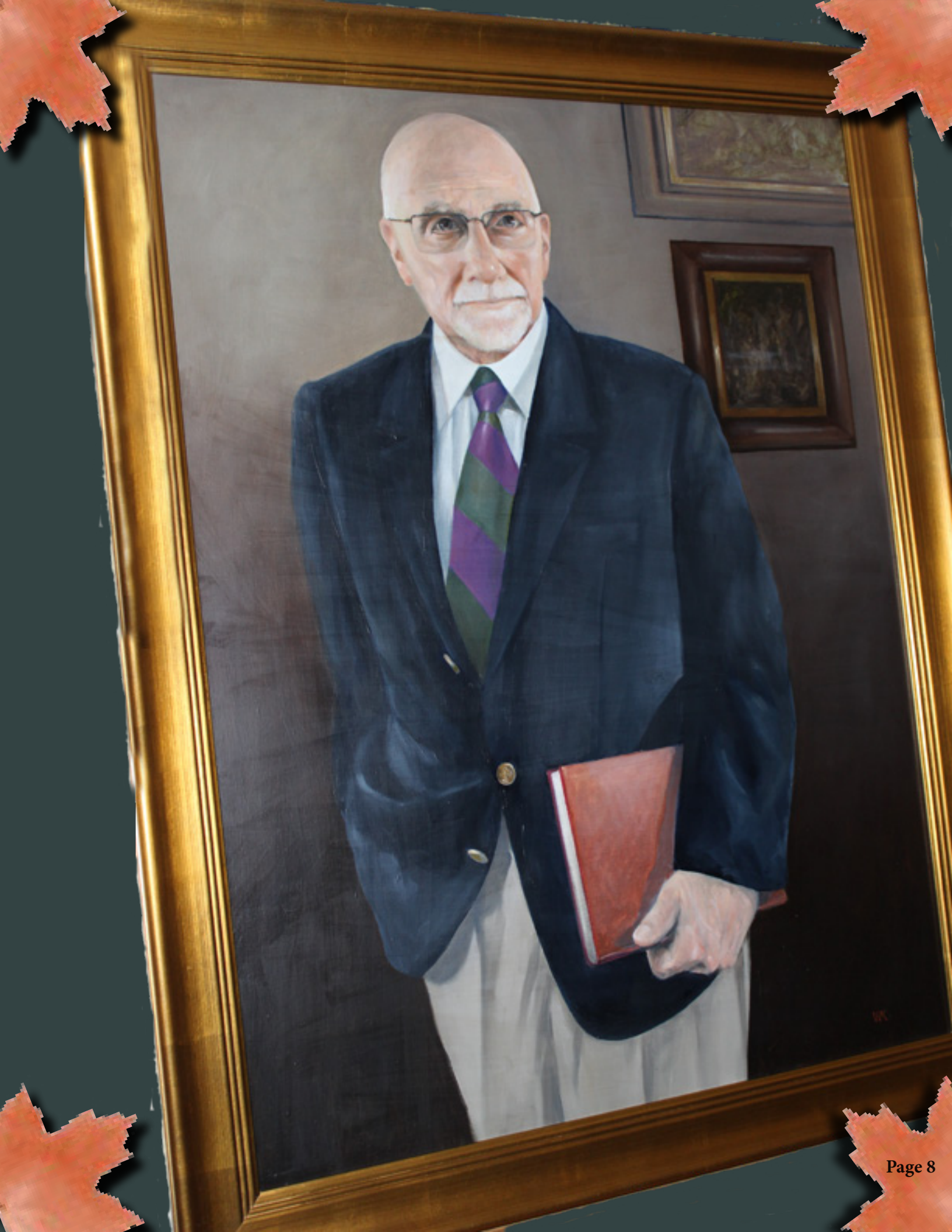
## Being Good Custodians

by Craig Balme, Manager Information Systems

One of the trickiest aspects of the Information Technology (IT) world is managing how funds are spent. Here at the RI Bankruptcy Court we have the belief that the use of public funds is a very serious matter. The desire to lower IT costs drove us to implement technologies that have changed the way we work, our hardware requirements, and our use of power. These technologies include several types of virtualization including desktop, application, server, and storage. Virtualization is the process of taking multiple, physical copies of hardware or software, and consolidating them into "virtual" copies that don't require actual hardware or local copies to perform. The hardware/software remains unaware that it is accessing a "virtual" resource instead of a physical one, and behaves exactly the same way as a physical version does.

Our virtual desktops run using Citrix XenDesktop. They are Windows 7 based and can be accessed anywhere, anytime, on any device that can run a small client program. This allows staff to work anywhere without being tied to a physical computer (that must be left on to access). Another benefit to these virtual desktops is that we can use old hardware as the 'client' so we don't have to worry about constantly upgrading or buying new PC's as they age. We have also implemented server virtualization that helps us save on server hardware costs, cooling, and power since all virtual servers run on one physical server. Virtual servers are just as powerful as hardware based servers, and provide all of the same services. Using two hosting servers, we are able to increase the failover ability in case of system crashes.

Two other areas we have virtualized are Applications and Storage. We save money on licensing costs since the applications are now offered 'on demand', since everyone does not need to access them all simultaneously. Additional savings are achieved by consolidating storage (hard drive space) and by freeing up hardware costs of the physical hosting servers themselves. The servers see the network storage as local, physical drives. As you can see, we have created an IT infrastructure that is aligned with the ideas of cost savings, high availability, the option to work on anything/anywhere, and has the ability to evolve to meet new demands.



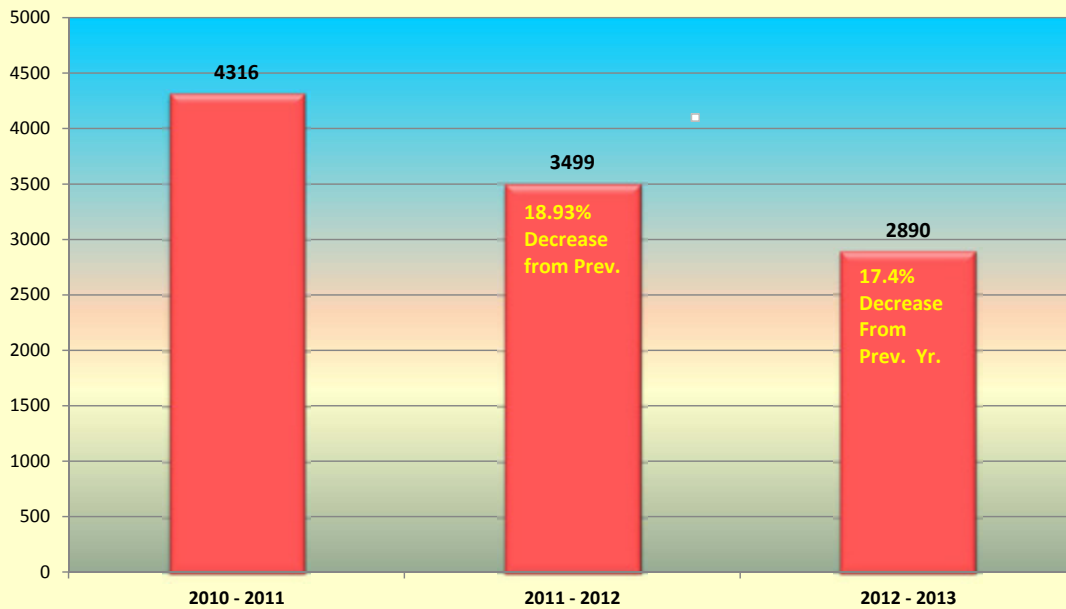


# Case Filing Statistics for Period Ending September, 2013

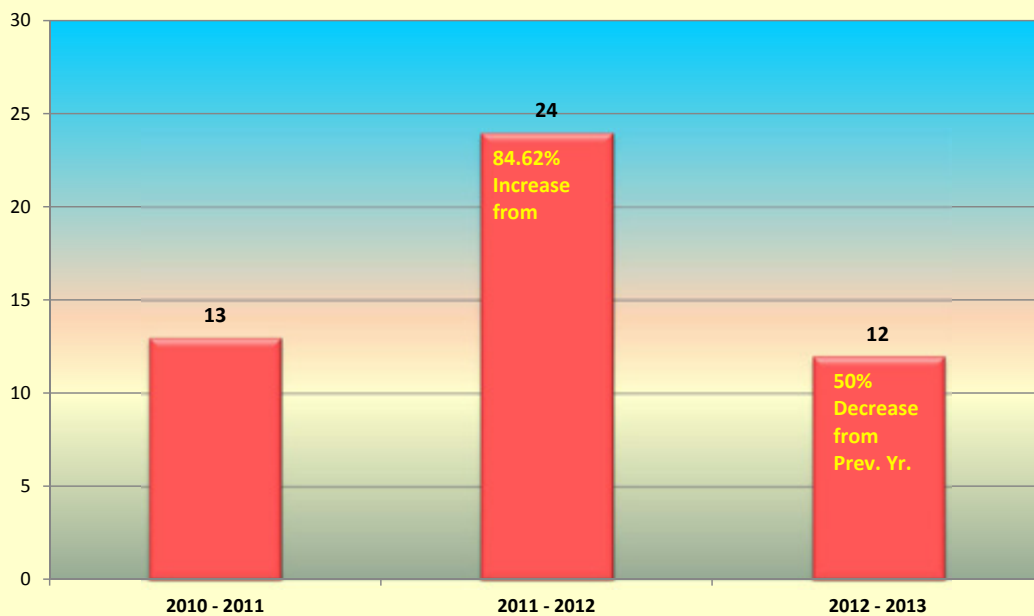
by Gail Kelleher, Chief Deputy Clerk



## Ch. 7 Case Filings for 12-Month Period Ending September 30th



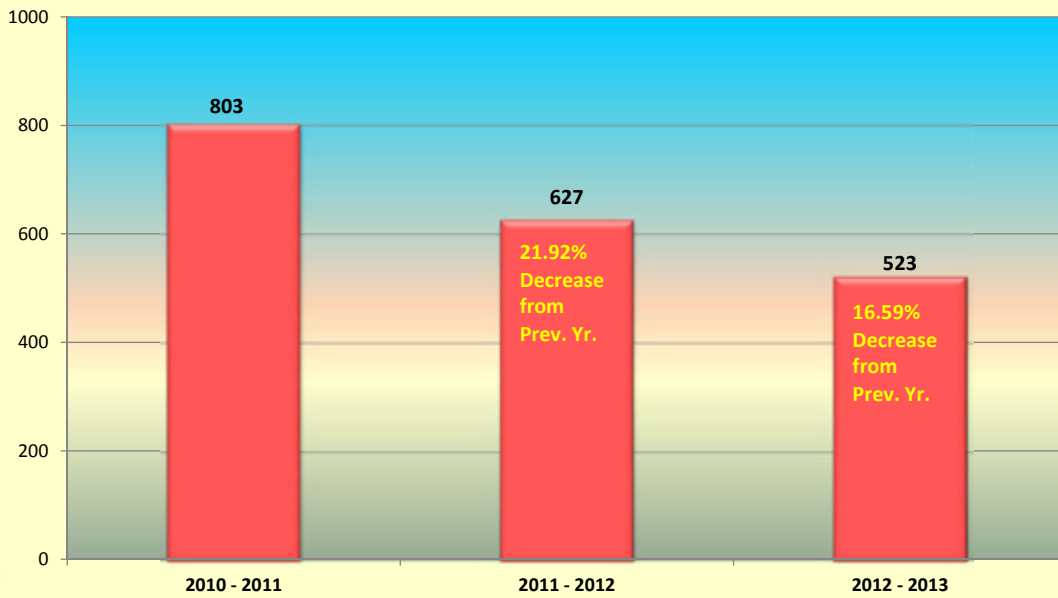
## Ch. 11 Case Filings For 12-Month Period Ending September 30th



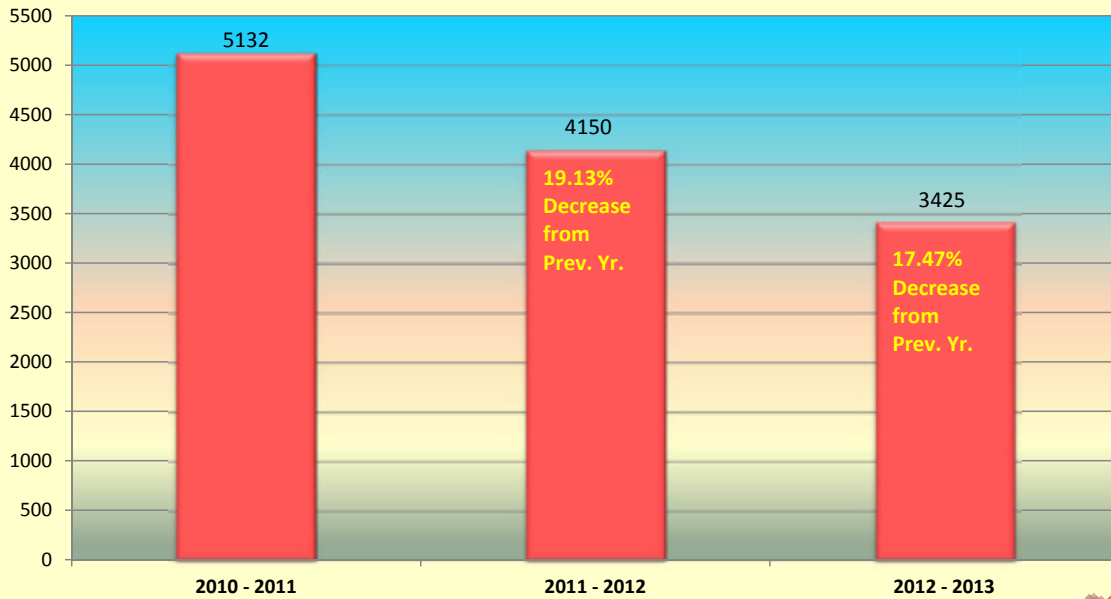
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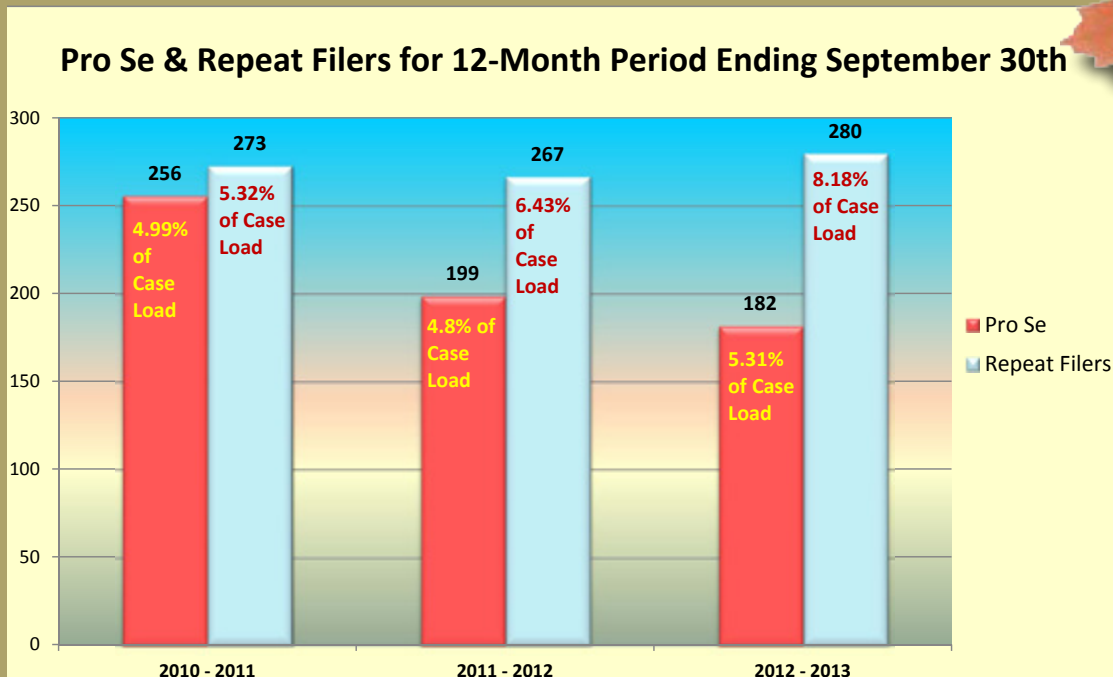


### Ch. 13 Case Filings for 12-Month Period Ending September 30th



### Comparison of Filings for 12-Month Period Ending September 30th - All Chapters





### UPCOMING COURT HOLIDAY CLOSING DATES

Veterans Day: 11/11/13  
Thanksgiving Day: 11/28/13  
Christmas Day: 12/25/13  
New Year's Day: 1/1/14

### 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

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