

United States Bankruptcy Court, District of Rhode Island



ON THE DOCKET

From the Desk of the Clerk

by Jonathan Pincince, Clerk of Court

One might have thought that after working here at the Court as a law clerk to Judge Finkle for more than a decade I would have a good understanding of the work that goes on behind the scenes to make the Court and Clerk's Office function. After about nine months as Clerk of Court, though, I see that I didn't know the half of it. At this point, the best I can say is that I feel like I am approaching knowing how much I still *don't* know.

What I *do* know is that I am thankful to be working with and learning from our small but mighty band of Clerk's Office and Chambers staff, from Judge Finkle and her law clerks Natalie Medved and Jacqueline Dagle, to our operations team of Amy Geraghty, Pam Ricciarelli, Dina Fortes, Christine Lanni, and Jennifer Davis, to our information technology duo of Craig Balme and Steve Stricklett, to our Chief Deputy Clerk Kristen Batty and Financial Administrator April Elderkin. Our staff's experience and knowledge, and even more so their dedication to and caring for the Court, for each other, and for the members of the public and the bar that come to the Court, have made my otherwise challenging transition from the legal to the administrative side of the Court not only manageable but enjoyable.

The Court's legal obligation is to apply the United States Bankruptcy Code and federal and local bankruptcy rules, and its longstanding formal mission has been to provide a forum for equal access to services and information for the just resolution of fiscal disputes. Informally, I like to think that our mission is to work hard and to be kind, and in my observation and experience our staff does both of those things exceedingly well.

In this issue of *On the Docket* you will find: information about computer and data security; changes to federal and local bankruptcy rules, fees, and noticing requirements; updates on the Court's mediation services, free legal clinic, transcript ordering process, employee recognition program, and case filing statistics; tips on practicing in and filing documents with the Court; and updates on bankruptcy law and practice. We hope you find something useful.

As always, please do not hesitate to contact the Clerk's Office with any questions that you might have, and please also feel free to contact me directly if you have any questions or concerns about the Court. Thanks for reading!

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**Change to the Mandatory Electronic Bankruptcy Noticing Threshold
Effective December 1, 2023**

Effective December 1, 2023, the Director of the Administrative Office of the United States Courts lowered the threshold requirement for certain high-volume paper-notice recipients to receive electronic bankruptcy notices. The Director is authorized under [Federal Rule of Bankruptcy Procedure 9036\(b\)\(2\)\(B\)](#) to designate paper-notice recipients who must receive electronic notices.

Due to the seamless transition to mandatory electronic noticing this past year, the Director approved lowering the threshold from 50 to 25 notices per month to encourage additional medium to large entities to receive the less expensive electronic notice. Any entity that has been sent 25 or more paper bankruptcy notices by the Bankruptcy Noticing Center (BNC) in a single calendar month will be designated as a high-volume paper-notice recipient pursuant to Federal Rule of Bankruptcy Procedure 9036(b)(2)(B).

The threshold number of paper notices that will cause a notice recipient to be designated as a high-volume paper-notice recipient will be reviewed annually and may be adjusted once a year, effective on December 1 of each year.

December 1, 2023 Changes to Bankruptcy Court Miscellaneous Fee Schedule

At its March and September 2023 sessions, the Judicial Conference approved inflationary adjustments to fees on the appellate, district, and bankruptcy court miscellaneous fee schedules, as well as on the Court of Federal Claims and the Judicial Panel on Multidistrict Litigation miscellaneous fee schedules. These changes became effective December 1, 2023.

Item No.	Description	Prior Fee Amount	Adjusted Fee Amount
1b	Reproduction of Electronic Copies [Not in Pacer or CM/ECF]	\$31	\$33
2-A	Certification	\$11	\$12
2-B	Exemplification	\$23	\$24
3	Audio Recording of Court Proceeding	\$32	\$34
4	Amended Bankruptcy Schedules	\$32	\$34
5	Record Search	\$32	\$34
7	Registration of Judgment/Foreign Judgment—Filing not related to a pending case or proceeding	\$49	\$52
12-A	Retrieval of Case from National Archives [1st box]	\$64	\$70
12-B	Retrieval of Case from National Archives [each additional box]	\$39	\$43
12-C	Electronic Retrievals	\$10	\$11
14-B	Direct Appeal Authorized/Cross Appeal	\$207	\$307
19	Filing the Following Motions: <ul style="list-style-type: none"> To terminate, annul, modify or condition the automatic stay; To compel the abandonment of property of the estate; To withdraw the reference of a case or proceeding; To sell property of the estate free and clear of liens under [sec. 363 (f)] 	\$188	\$199
20	Transfer of Claim	\$26	\$28
21	Motion to Redact	\$26	\$28

Chart of December 1, 2023 Local Rules Amendments

by Pamela Ricciarelli, Courtroom Deputy

Amendments to Local Rules	Summary of Amendments to Local Rules Effective December 1, 1023
<u>Rule 5077-1 Transcripts - Amended</u>	<p>The rule no longer provides instructions for ordering a transcript. Instead, it directs the requester to visit the Court's website for more information. The rule also requires the requester to order a transcript directly from the transcription company of their choice.</p> <p>Subdivisions have been eliminated.</p>
<u>Rule 9018-1 Filing Under Seal – Amended</u>	<p>Subdivision (d)(1) is amended to include the disposition of a motion to seal when it is withdrawn by the filer.</p> <p>A new paragraph under Subdivision (2) has been added to provide for the disposition of documents when the motion to seal is granted in part. The filer must file on the public docket a redacted version of the document indicating “redacted” for the relevant portions within 10 days of entry of the Seal Order. Failure to timely file the redated documents will result in the motion to seal being denied, and the documents will be returned to the filer and will not be part of the record in the case.</p>

Chart of December 1, 2023 Amendments to Federal Rules and Forms

by Pamela Ricciarelli, Courtroom Deputy

Federal Rule and Form Amendments	Summary of Federal Rule and Form Amendments Effective December 1, 2023
<p><u>Rule 3011 – Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12 and Chapter 13 (Amended)</u></p>	<p>Amended to include new Subdivision (b) which requires the Clerk to provide searchable access on the court’s website to information about funds deposited under § 347(a). The Court may limit access to information about such funds in a specific case for cause.</p>
<p><u>Rule 8003. Appeal as of Right – How Taken; Docketing the Appeal (Amended)</u></p>	<p>Subdivision (a) is amended to clarify that the designation of a particular interlocutory order in a notice of appeal does not prevent the appellate court from reviewing all orders that merged into the judgment or appealable order or decree.</p> <p>Subdivision (a)(3)(B) is amended to avoid the misconception that it is necessary to identify each and every order of the bankruptcy court that the appellant may wish to challenge on appeal. It requires the attachment of the “the judgment – or the appealable order or decree – from which the appeal is taken” and deletes the phrase “or the part of it”.</p> <p>Subdivision (a)(4) now calls attention to the merger principle. Simply stated an appeal from a final judgment or appealable order or decree permits review of all rulings that led up to the judgment, order or decree.</p> <p>Subdivision (a)(5) is added to reduce the unintended loss of appellate rights. It does not alter the requirement of Rule 8002(b)(3) (requiring a notice of appeal or an amended notice of appeal if a party intends to challenge an order disposing of certain motions).</p> <p>Subdivision (a)(6) is added to enable deliberate limitations of the notice of appeal allowing an appellant to identify only part of the judgment or appealable order or decree by expressly stating that the notice of appeal is so limited.</p> <p>Subdivision (a)(7) is added to provide that an appeal must not be dismissed for failure to properly identify the judgement, appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into the judgement, order or decree from which the appeal is taken.</p>

<p><u>Rule 9006. Computing and Extending Time; Time for Motion Papers (Amended)</u></p>	<p>Subdivision (a)(6)(A) is amended to add “Juneteenth National Independence Day” to the list of legal holidays.</p>
<p><u>Rule 9038. Bankruptcy Rules Emergency (NEW)</u></p>	<p>This rule is new and provides authority to extend or toll the time limits in these rules during times of major emergencies affecting bankruptcy courts.</p> <p>Subdivision (a) specifies the limited circumstances under which the authority conferred by this rule may be exercised.</p> <p>Subdivision (b)(1) indicates a Bankruptcy Rules emergency declaration must specify the bankruptcy courts to which it applies. An emergency might be limited to one area of the country or even to a particular state. The declaration must specify a termination date no later than 90 days from the declaration’s issuance.</p> <p>Subdivisions (b)(2) and (b)(3) note that time period may be extended by the issuance of additional declarations or reduced by early termination if circumstances change.</p> <p>Subdivision (c)(1) and (c)(2) grants the authority to extend or toll deadlines to the chief bankruptcy judge of a district on a district or division-wide basis or to the presiding judge in specific cases.</p> <p>Subdivision (c)(3) addresses the termination of times periods and provides a soft landing upon the termination of a Bankruptcy Rules emergency. It looks to three possible dates for a time period to expire.</p> <p>Subdivision (c)(4) allows fine tuning in individual cases of extensions of time or tollings that have been granted.</p> <p>Subdivision (c)(5) excepts from the authority to extend time periods any time provision imposed by statute.</p>

Amendments to Official Forms and one Director's Form	
<u>Official Form 410A – Proof of Claim, Attachment A</u>	Minor revisions are made to Part 3 of the Form to provide for separate itemization of principal due and interest due. This information assists the debtor who is curing arrearages to know which portion of the total arrearages is principal and which is interest.
<u>Official Form 417A – Notice of Appeal and Statement of Election</u>	Amendments have been made to Parts 2 and 3 to conform to wording in the simultaneously amended Rule 8003. It reminds appellants that appeals as of right from orders and decrees are limited to those that are “appealable”. It clarifies that it requires only identification of the “the judgment – or the appealable order or decree- from which the appeal is taken”.
<u>Director's Form 1340 – Application for Payment of Unclaimed Funds</u>	Amendments have been made to discourage fraudulent applications from person(s) asserting that they are a successor claimholder.



Court Mediation Services

by Jonathan Pincince, Clerk of Court

After many years of providing expert mediation services to this Court and its litigants, Berry Mitchell, ADR Administrator for the U.S. District Court for the District of Rhode Island, retired at the end of 2023. Mr. Mitchell gave countless hours of his service to this Court and its litigants, providing highly skilled mediation in adversary proceedings and contested matters, as evidenced by his success in resolving nearly every case he mediated for the Court.

The Court wishes him all the best and much happiness in his well-deserved retirement.



Effective January 1, 2024, Chief Bankruptcy Judge Peter Cary of the District of Maine has graciously agreed to provide mediation services to this Court and its litigants. Judge Cary is also highly skilled in mediation, having conducted many mediations during his tenure on the bench. Unless litigants request to appear in person in Portland, Maine, mediations by Judge Cary will be conducted remotely. The Court's procedures for requesting mediation remain unchanged; parties simply need to file a request with the Court for mediation, and the Court will advise the parties if Judge Cary is available to mediate the matter. Thank you, Judge Cary!

Upcoming Proposed Federal Rule Amendments

<p><u>Proposed Federal Rule Amendments</u></p> <p>(Use the above link to access the proposed rule amendments)</p>	<p>Summary of Federal Bankruptcy Rule Amendments Effective December 1, 2024</p>
<p>Rule 1007 --Lists, Schedules, Statements, and Other Documents; Time to File (Amended)</p>	<p>This rule amendment deletes the directive to file a statement on Official Form 423 (Certification About a Financial Management Course) and make filing the course certificate itself the exclusive means showing that the debtor has taken a postpetition course in personal financial management.</p>
<p>Rule 4004 -- Granting or Denying a Discharge (Amended)</p> <p>Rule 5009 -- Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied (Amended)</p> <p>Rule 9006 -- Computing and Extending Time; Motions (Amended)</p>	<p>References in Rules 4004, 5009, and 9006 to the “statement” required by Rule 1007(b)(7) are changed to refer to a “certificate.”</p>
<p>Rule 7001 – Types of Adversary Proceedings (Amended)</p>	<p>The amendment to Rule 7001(a) creates an exception for certain turnover proceedings under § 542(a) of the Code. The proposed amendment allows the debtor to seek turnover of such property by motion under § 542(a), and the procedures of Rule 9014 would apply.</p>
<p>Rule 8023.1 – Substitution of Parties (New)</p>	<p>New Rule 8023.1 is modeled on Appellate Rule 43. Neither Appellate Rule 43 nor Civil Rule 25 applies to parties in bankruptcy appeals to the district court or bankruptcy appellate panel. This new rule is intended to fill that gap by providing consistent rules (in connection with such appeals) for the substitution of parties upon death or for any other reason.</p>
<p>Restyled Rules Parts I through IX</p>	<p>The amendments include formatting changes to achieve clearer presentation and stylistic changes to replace inconsistent, ambiguous, repetitive, or archaic words. The style changes are not intended to change substantive meaning. The restyling project did not change any rule language that has been enacted by Congress.</p>

Tips and Tricks

by Pamela Ricciarelli, Courtroom Deputy

Why is properly linking your document in the Case Management/Electronic Case Files system [CM/ECF] important?¹

By providing accurate linkage when filing documents with the court, you help us to keep our docket on track. Here are some examples of proper linkage:

- Loss Mitigation Status Report - Link to the original Order granting the Loss Mitigation Request.
- Motion to Continue Hearing – Link to the underlying Motion you would like continued, not the “Hearing Set” entry.
- Motion to Extend Time to file Missing Document - Link to the underlying/original order regarding missing documents and not to any previous order granting extension of time.
- Trustee’s Status Report – Link to the Voluntary Petition.

Please double check property addresses

Typographical errors in property addresses, such as incorrect street numbers or city names, within a Motion to Avoid Lien or Motion to Declare Secure Claims Satisfied can cause unnecessary delays in processing the request. This error frequently requires an amended order or motion to be filed.

Which event do I use?

The CM/ECF system offers a search feature. Once logged into the system, select search and type a word related to the document you are trying to file. When you locate the event, proceed with the prompted screens to complete your filing. Also available on our website is the [Electronic Filer User Manual \(uscourts.gov\)](http://uscourts.gov) (EFUM) which contains step-by-step instructions for registered ECF users to file documents with the Court. The manual is divided by subject matter type and includes such areas as adversary proceedings, appeals, case opening, claims, loss mitigations, motions and applications, reports, etc. We highly encourage registered users to consult the EFUM for their filing questions. As always, if you are still in need of assistance, please contact the Clerk’s Office. We are here to help!

Uploading Missing Documents

When filing missing documents after the initial petition has been filed with the Court, please be sure that you upload, in one pdf, *only* those documents that do not have a specific event for filing. Certain documents are required to be restricted and have their own event. Example: employee income records or an affidavit of non-existence should be filed under, “Payment Advice”. The [Statement of Social Security Number \(B121\)](#) should always be filed using the event, “Statement of SSN”.

Do your fees match?

For attorneys of record in Chapter 13 cases, it is important to verify that the fees for legal services listed on both [Local Form 2083-1.1](#) (Chapter 13 Agreement Between Debtor and Counsel) and on [Director’s Form B2030](#) (Disclosure of Compensation of Attorney for Debtor) match exactly.

¹ **Linking** refers to the process of **associating** the document you are filing with the document it pertains to. For example, you might link the objection you are filing with the motion or application you are objecting to. In other words, linking ensures that related documents are appropriately connected, streamlining the legal process and maintaining clarity in court proceedings.

How Do I....?

by Jennifer Davis, Case Administrator



“How Do I ... Change a Debtor’s Address?”

EVENT: CHANGE OF ADDRESS (Bankruptcy->Notice->Change of Address)

It’s a short event and we offer a Word form template for your convenience! <https://www.rib.uscourts.gov/microsoft-word-and-pdf-fillable-templates-commonly-used-forms>.

Kindly note that a debtor’s address change requires notifying all creditors and ensuring that your Certificate of Service complies with [RI LBR 9013-3\(d\)](#) .

“How Do I ... Clear my Cache and Cookies?”

Clearing your browser’s cache and cookies periodically can help improve the loading time of new web pages and increase your computer’s performance by deleting previously stored settings. Once you’ve cleared the cache and cookies, make sure to close and reopen your browser.

For PCs:

Chrome:

1. Click the **Tools** menu (three dotted lines in the upper-right corner);
2. Select **Clear Browsing Data** from the left-hand side; **Time Range** set to **All Time**; Check Cookies and other site data and Cached images and files and select **Clear Data**.

Edge:

1. Click the **Tools** menu (three dotted lines in the upper-right corner) and open the **Settings** menu;
2. Click **Privacy, search and services** on the left-side menu;
3. Under the section **Clear browsing data**, Click **Choose what to clear**;
4. Select **Cookies and other site data** and **Cached images and files**;
5. Click **Clear Now**.

For Safari on an iPhone:

1. From the Safari home screen, Select **Settings** and then **Safari**;
2. At the bottom of Safari’s settings screen, Select **Clear Cookies and Data** or **Clear Cookies and Clear Cache**.

AI Tips & Internet Security

by Steve Stricklett, Automation Support Specialist



As artificial intelligence (AI) becomes more integrated into all computer systems, there are some important precautions to consider:

- How are you protecting your data?
- Where are you sharing your data?
- How is your data collected and/or used by AI systems when you are using AI systems?
- How AI technologies can be used to create convincing fakes such as:
 - * Videos
 - * Images
 - * Audio recordings

Here are some recommendations to help protect your data:

- Be cautious about sharing personal information online:
 - * This is true especially on social media and other public platforms.
 - * Review privacy settings on websites and apps to control what information is shared and who can access it.
- Be skeptical of contact from unknown sources:
 - * Be wary of phishing emails, scam phone calls, and other social engineering attacks that can use AI-generated content to trick victims.
 - * Always verify the identity of the sender before clicking on links or providing sensitive information.
- Be cautious when consuming media online:
 - * Verify the authenticity of content, especially if it seems too good to be true.
- Stay informed about AI threats:
 - * Staying updated on the latest AI-based cybersecurity threats and vulnerabilities helps you be aware of potential risks.
 - * This will also help you recognize suspicious activities and take appropriate measures to protect yourself.

By following these suggestions, you can better protect yourself against the security risks associated with artificial intelligence technologies.

If you would like to try any of the many AI options available, take the time to educate yourself about best practices on how to use AI technologies safely.

AI Tips & Internet Security (continued)

Here are some computer security precautions you can apply to help safeguard your devices and data:

Use strong passwords:

- Use strong, unique passwords for all your accounts and devices.
- Separate work accounts from personal ones
- Consider using a password manager to securely store and manage your passwords.

Enable two-factor authentication whenever possible:

- This adds an extra layer of security.

Secure your devices and networks:

- Keep your devices up to date with the latest security patches and updates. This includes computers, smartphones, smart watches and IoT devices.
- Use firewalls and antivirus software to protect against malware and other threats.
- Secure your home Wi-Fi network with a strong password and encryption.

Regularly backup your computer data:

- Backup your important files and data regularly to a secure, offline location. This could be as simple as a large USB key or external hard drive.
- Using a scheduled task can help making sure you backup regularly.
- In the event of a ransomware attack or data breach, having backups can help you recover your data without having to pay a ransom or suffer permanent data loss.

Regularly backup your phone and tablet:

- With our reliance on our mobile devices increasing, these backups are extremely important and necessary in case of a device failure or lost device.
- Just like backing up computer data, using a scheduled task for this can help make sure you backup your devices regularly.



Updated Transcript Ordering Process

In December of 2023 the Court modified its procedures for ordering a written transcript. To obtain a transcript, you must now: Select a transcription service from the list of [Court Approved Transcription Services](#) and contact them directly to request a transcript. The transcription service will guide you through the necessary procedures and associated costs for your request. Upon receiving your request, the transcription service will enter “Acknowledgement of Transcript” onto the case docket, and the court will provide the digital audio recording of your request to the transcriber. From the audio they will provide an original, hard-copy transcript according to the specifics of your request. Please be advised that you cannot order a portion of a hearing, or a portion of a specific case heard as part of a calendar; instead, you will need to order the entire hearing. Remember not to directly contact the Court for transcripts; the transcribers are your primary point of contact for ordering and follow-up. Lastly, note that the Court does not provide recommendations for transcription service agencies.

Bankruptcy Court Practice Tips

by Jacqueline Dagle and Natalie Medved, Law Clerks

Motions to Avoid Judicial Lien: Certificates of Service

[R.I. LBR 4003-2\(b\)](#) requires a motion to avoid a judicial lien to be served in accordance with the requirements of [R.I. LBR 9013-3\(b\)\(2\)](#), which requires such a motion to be served on both the lienholder and the lienholder's counsel, if known, as specified in R.I. LBR 9013-3(b)(2)(A) and (B). Additionally, R.I. LBR 9013-3(b)(2)(C) requires that, if the lienholder is an insured depository institution, then the lienholder must be served as prescribed in [Federal Rule of Bankruptcy Procedure 7004\(h\)](#), including being addressed to a named officer of the institution by title as well as to a registered agent of the institution. Note that a registered agent is separate from a named officer of an institution. Depository institutions are searchable via the Federal Deposit Insurance Corporation's electronic database, BankFind Suite, linked [here](#). Additionally, Rhode Island registered agents are searchable through the Rhode Island Department of State's Historic Corporate Catalog, linked [here](#). The Court acknowledges that complying with this rule can take a bit of work, but alas, it is required by the Federal Rules of Bankruptcy Procedure, and the Court appreciates counsel's continued efforts.

Motions to Seal

While it may be commonplace to ensure confidentiality of settlements in civil cases under [Federal Rule of Civil Procedure 41](#), most documents filed with the Bankruptcy Court are presumptively available for public inspection in adherence with [11 U.S.C. § 107\(a\)](#). See *In re Blake*, 452 B.R. 1, 10 (Bankr. D. Mass. 2011). Even so, the Court recognizes that in a narrow set of circumstances, parties may wish to exercise their right to limit access to judicial records. In any event, parties must follow the guidelines set forth in the relevant federal and local rules.

Pursuant to 11 U.S.C. § 107(b)(1), upon the request of a party in interest or on the court's own motion, a bankruptcy court may, "protect an entity with respect to a trade secret or confidential research, development, or commercial information." [Federal Rule of Bankruptcy Procedure 9018](#) establishes the procedure for invoking section 107, thereby permitting the court to make any order which justice requires to ensure that sensitive information is protected pursuant to section 107(b). Additionally, if a party has established cause for limiting public access, [Federal Rule of Bankruptcy Procedure 9037\(d\)](#) allows the Court to require redaction of information or to limit a non-party's remote access to a document filed with the Court.

Turning to the local rules, [R.I. LBR 9018-1\(a\)\(1\)](#) requires that a party seeking to seal a document must file a motion including the following elements: (i) a statement under oath setting forth the grounds for sealing the Document(s), (ii) a request stating the duration that the Document(s) are sought to remain sealed, and (iii) a proposed order which identifies any parties or other persons other than the movant who will have access to the document(s).

Effective December 1, 2023, R.I. LBR 9018-1(d)(1) addresses both the disposition of documents sought to be sealed when a motion to seal is denied, in whole or in part, or withdrawn by the movant. In both instances, the applicable documents will be returned to the filer of the motion. Additionally, where a motion to seal has been granted in part and the Court has approved the sealing of only certain portions of the documents, R.I. LBR 9018-1(d)(2) requires the filer to file a redacted version of the documents on the public docket within 10 days of entry of the Seal Order. The failure to timely file the redacted documents will result in the denial of the motion to seal in its entirety and the documents' exclusion from the record of the case.

Developments in Case Law: Imputation of Fraud and Nondischargeability

by Jacqueline Dagle and Natalie Medved, Law Clerks

The underlying goal of a chapter 7 bankruptcy case is for the debtor to obtain a “fresh start,” which is achieved when the chapter 7 case is complete and nearly all previously incurred debts are discharged. *See Privitera v. Curran (In re Curran)*, 855 F.3d 19, 22 (1st Cir. 2017) (citing *Grogan v. Garner*, 498 U.S. 279, 283 (1991); *Harrington v. Simmons (In re Simmons)*, 810 F.3d 852, 855 (1st Cir. 2016)). Accordingly, the importance of [§ 727\(a\)](#) of the Bankruptcy Code, generally requiring the court to grant the individual chapter 7 debtor a discharge, cannot be overstated.

Because the Bankruptcy Code is designed to give debtors a fresh start, any exceptions to discharge should be narrowly construed. *See deBenedictis v. Brady-Zell (In re Brady-Zell)*, 756 F.3d 69, 72 (1st Cir. 2014) (citing *Rutanen v. Baylis (In re Baylis)*, 313 F.3d 9, 17 (1st Cir. 2002), 313 F.3d 9, 17 (1st Cir. 2002)). Even so, “statutory provisions governing nondischargeability reflect a congressional decision to exclude from the general policy of discharge certain categories of debts—such as child support, alimony, and certain unpaid educational loans and taxes, as well as liabilities for fraud.” *Grogan*, 498 U.S. at 287. [Section 523\(a\)\(2\)\(A\)](#) of the Bankruptcy Code, in particular, bars the discharge of “any debt . . . for money . . . to the extent obtained by . . . false pretenses, a false representation, or actual fraud.” 11 U.S.C. § 523(a)(2)(A). Circuits were previously split on whether, for the purposes of nondischargeability, fraud could be imputed to an innocent debtor. *See Columbia Farms Distrib. v. Maltais (In re Maltais)*, 202 B.R. 807, 812, n. 6 (Bankr. D. Mass. 1996) (collecting cases addressing “whether misconduct should be imputed from an agent or partner to an innocent debtor under other exceptions to discharge, such as, e.g. for ‘false pretenses, a false representation, or actual fraud’ under § 523(a)(2)(A).”).

On February 22, 2023, the Supreme Court in *Bartenwerfer v. Buckley*, 598 U.S. 69, 72 (2023) unanimously held that pursuant to § 523(a)(2)(A), regardless of the debtor’s personal culpability, a debtor may not discharge a debt resulting from a partner or agent’s fraud. In *Bartenwerfer*, the petitioner entered into business dealings with her husband to remodel and sell a house for profit. *Id.* Without the petitioner’s knowledge, her husband perpetrated fraud during the course of the sale. *Id.* Accordingly, the buyer successfully sued the couple in state court for damages. *Id.* at 73. Unable to pay the judgment, the couple filed for chapter 7 bankruptcy. *Id.* The respondent then filed an adversary complaint alleging that the state-court judgment was nondischargeable pursuant to § 523(a)(2)(A) and the case eventually reached the Supreme Court to decide whether the fraud of a partner is imputed to the innocent debtor for dischargeability purposes. *Id.* at 73-74.

The Supreme Court determined that because § 523(a)(2)(A) omits the phrase “of the debtor” with respect to fraud and is drafted in the passive voice, “§ 523(a)(2)(A) turns on how the money was obtained, not who committed fraud to obtain it.” *Id.* at 72. Moreover, in the context of common law fraud, “courts have traditionally held principals liable for the frauds of their agents.” *Id.* at 77 (citing *McCord v. Western Union Telegraph Co.*, 39 Minn. 181, 185 (1888); *Tome v. Parkersburg Branch R. Co.*, 39 Md. 36, 70–71 (1873); *White v. Sawyer*, 82 Mass. 586, 589 (1860); J. Story, *Commentaries on the Law of Agency* 465–467 (1839)). Thus, fraud was imputed to the petitioner-debtor and the debt was rendered nondischargeable. *Id.* at 83.



Recent Court Decision

by Jacqueline Dagle and Natalie Medved, Law Clerks

Here is a short digest of a recent noteworthy decision of the Court. As always, published opinions and orders are available on the Court's website's [opinions page](#).

***John J. Tworog v. William Burke*, A.P. No. 20-01008 (In re John J. Tworog, BK No. 18-11752) (Chapter 7) (February 24, 2023):**

On February 24, 2023, the Court entered a Decision and Final Judgment in favor of the defendant after a trial on the plaintiff's alleged stay violation claim. According to the plaintiff's amended complaint, the defendant violated the automatic stay by proceeding with oral argument on the merits of a case between the parties before the Rhode Island Supreme Court, after the filing of the plaintiff's bankruptcy petition. The defendant countered that: (1) the parties did not proceed with argumentation before the court, negating the allegation of a willful stay violation, and (2) even if the stay had been violated, the plaintiff failed to establish any resulting damages. The Court, assessing the credibility of the witnesses, concluded that no violation of the automatic stay occurred and entered judgment for the defendant. On January 23, 2024, the Court's Decision and Final Judgment was affirmed by the U.S. District Court for the District of Rhode Island.



Bankruptcy Legal Clinic Update and Appreciation

by Christine Lanni, Clinic Coordinator, and Jonathan Pincince, Clerk of Court

The [Rhode Island Bankruptcy Legal Clinic](#) is a free legal clinic that is a partnership between the U.S. Bankruptcy Court for the District of Rhode Island and members of the Rhode Island bankruptcy bar. This program provides prospective debtors with an opportunity to meet remotely, one-on-one, with a volunteer bankruptcy attorney for a free half-hour consultation. Volunteer attorneys provide limited legal advice to individuals without an attorney by answering their questions about bankruptcy and required paperwork, as well as about how bankruptcy may be used to help prevent foreclosure. The Clinic does not provide individuals with an attorney to represent them or complete their paperwork for them.

In its seven years of operation, the Clinic and its volunteer attorneys have helped over 120 individuals undergoing financial distress to become more educated about the bankruptcy process and their rights. Several dozen of those individuals have filed bankruptcy cases and received a bankruptcy discharge, generally considered an indicator of success in bankruptcy. The Clinic's operations are a success due to the outstanding assistance provided by our volunteer bankruptcy attorneys. We are extremely grateful for the service of the following attorneys who volunteered their time and expertise to the Clinic in 2023 and so far in 2024. Please let us know if you would like to join their ranks.

- * Stacy B. Ferrara
- * Lisa A. Geremia
- * Janet J. Goldman
- * Peter M. Iascone
- * Stephen P. Levesque
 - * Jack D. Pitts
- * Thomas P. Quinn
- * John S. Simonian



Thank you all, again!

29th Annual Employee Recognition Ceremony

by Kristen Batty, Chief Deputy Clerk

September 14, 2023 marked the day the Bankruptcy Court held its 29th Annual Employee Recognition Ceremony. All Court employees attended a celebration highlighting the year's many accomplishments. Below is a sampling of some of the awards given to our Court staff.

The operations staff – Carolyn, Jen, Christine, Pam, Dina, and Janet – received a Gold Award for completing the Chart of References for the Rules Restyle Project. In anticipation of the 2024 federal rules restyle, and seeing a need to track the location of certain citations and references for the future, the operations team divided the many resources of the Court, such as the online manuals, website, local forms, rules, and CM/ECF events, and charted the location where every local and federal rule and form was cited. Having this information in one place is invaluable and will make updating the Court's resources with any future amendments a breeze!

Case Administrators Christine Lanni and Jennifer Davis, as well as Courtroom Deputy Pamela Ricciarelli, received the Customer Service Award. Some comments from their colleagues include:

“Christine gave me her full attention and made sure that she looked at all the avenues that may or may not help my situation. She is very helpful.”

“Jen is always patient and ready to help anyone who needs it. She does this with a professional and courteous demeanor.”

“Pam is patient, professional and very helpful to both her internal and external customers. . . . Pam's interactions and communications with the bar and public are always professional and thorough.”

Keeping the Court up-to-date with the latest security measures is high on the Administrative Office's list of priorities. Steve Stricklett received an award for the Set Up DUO (2 Factor Authentication) for Desktops Project. The Administrative Office mandated that all desktop systems be set up to use secondary (dual) authentication to increase security and to follow “know your user (customer)” practices. Steve worked with everyone to accomplish the goals of this project.

Our highest honor, the Sustained Superior Performance Award, was given to CM/ECF Analyst Dina Fortes. Dina (pictured) started working at the Court in 2009 as a Case Administrator handling case intake and customer service. In 2018, she was promoted to CM/ECF Analyst and primary ECRO, and she continues to serve as backup Financial Administrator. Throughout her 14 years with the Court, Dina has demonstrated the utmost dedication to excellence in all of these functions, as well as a strong work ethic, as recognized by her peers in their nomination comments: “Dina has really grown into her position as CM/ECF Analyst. She is a wiz on the computer and offers to help whenever she can. She tackled the ACR (Automated Collections Register – cash register program) database and figured out ways to make the system work for us. Thank you, Dina, for all your hard work.”

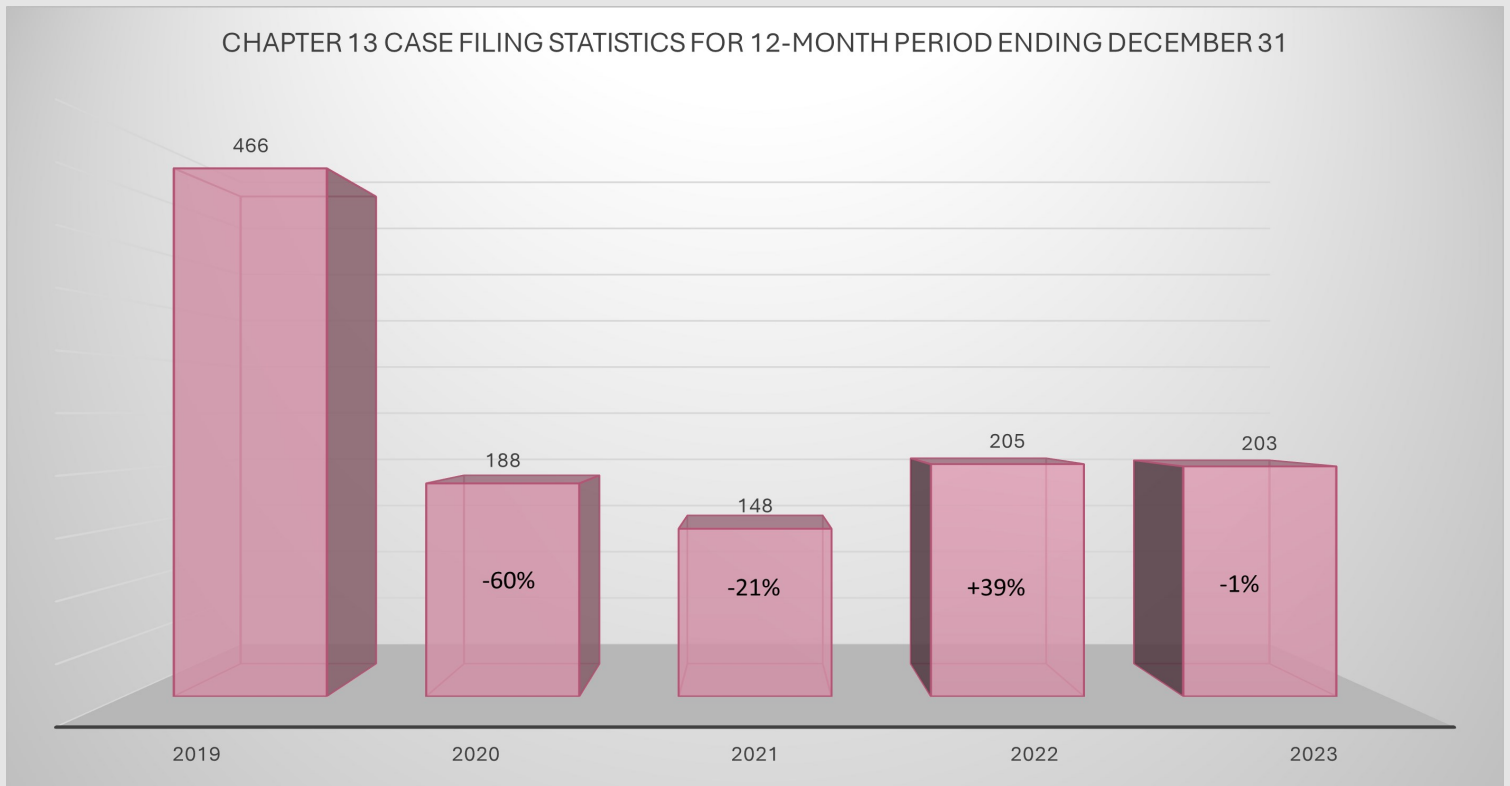
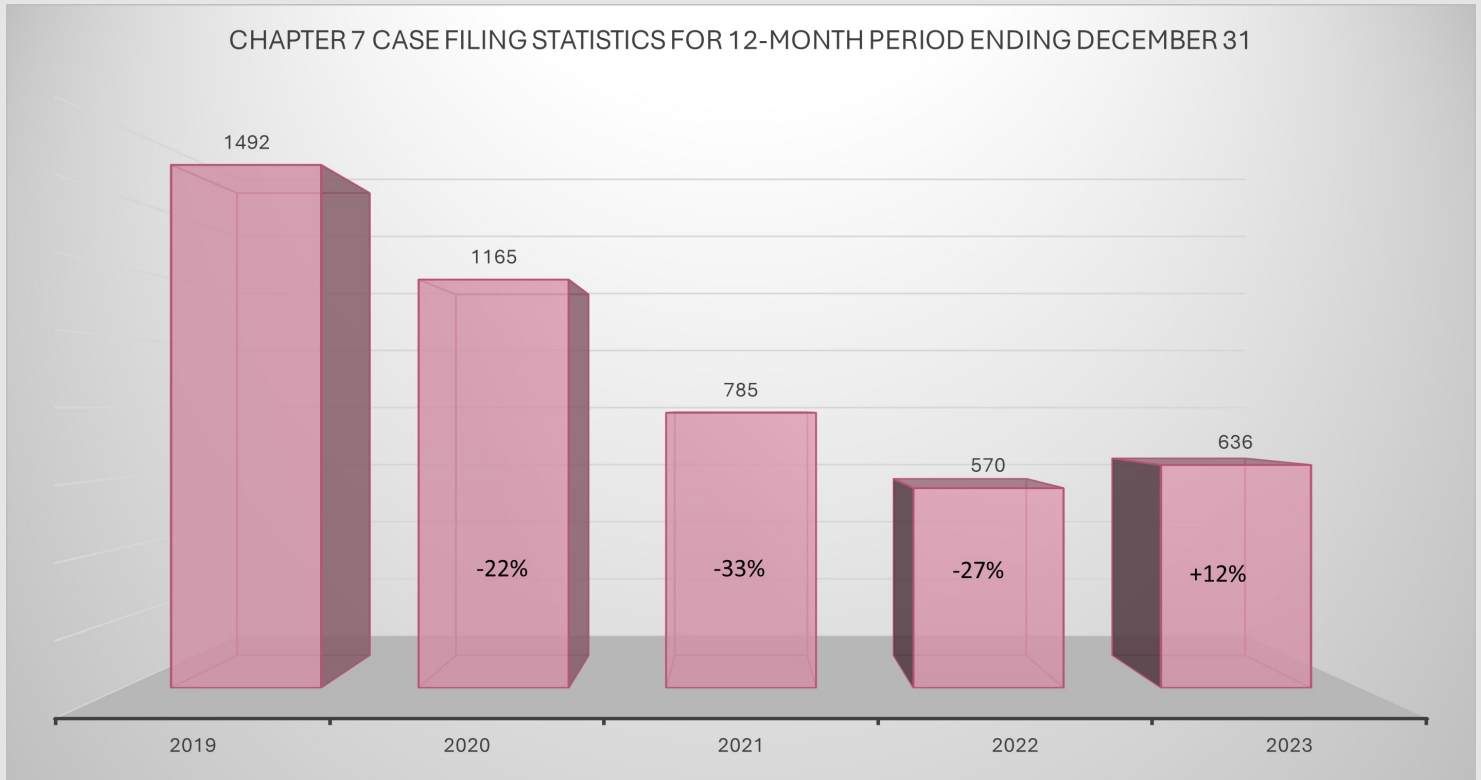


Along with the employees and awards discussed above, many other employees were honored with awards for projects such as a Record Management Project, Internal Controls Manual into Flare Project, New Chapter 13 Trustee Transition, Cyclical Audit, Retiring CUE (Court Unit Executive) to Acting CUE to New CUE Transitions, as well as many IT-related projects, such as upgrades to servers, SurfacePro upgrades for all staff, and NextGen CM/ECF Upgrade to Version 1.7.0.1.

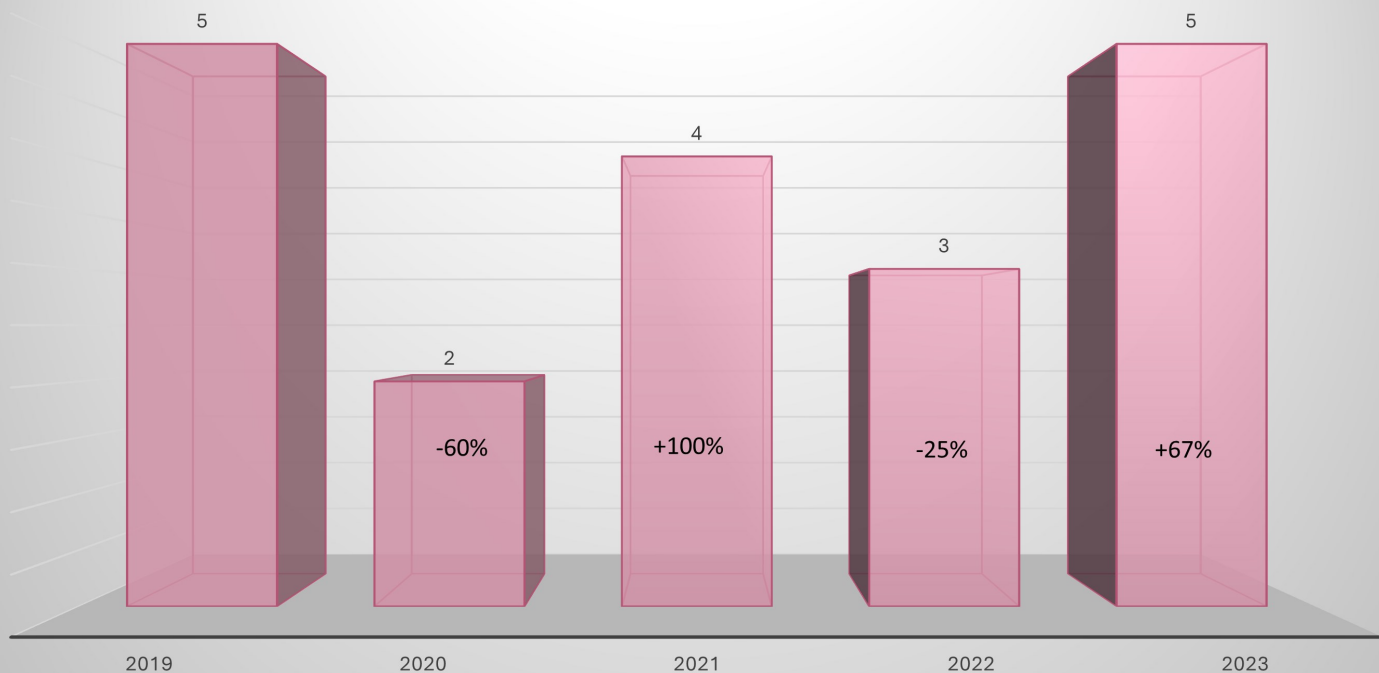
Please join me in congratulating the entire staff for all their hard work!

Case Filing Statistics for Period Ending December 31, 2023

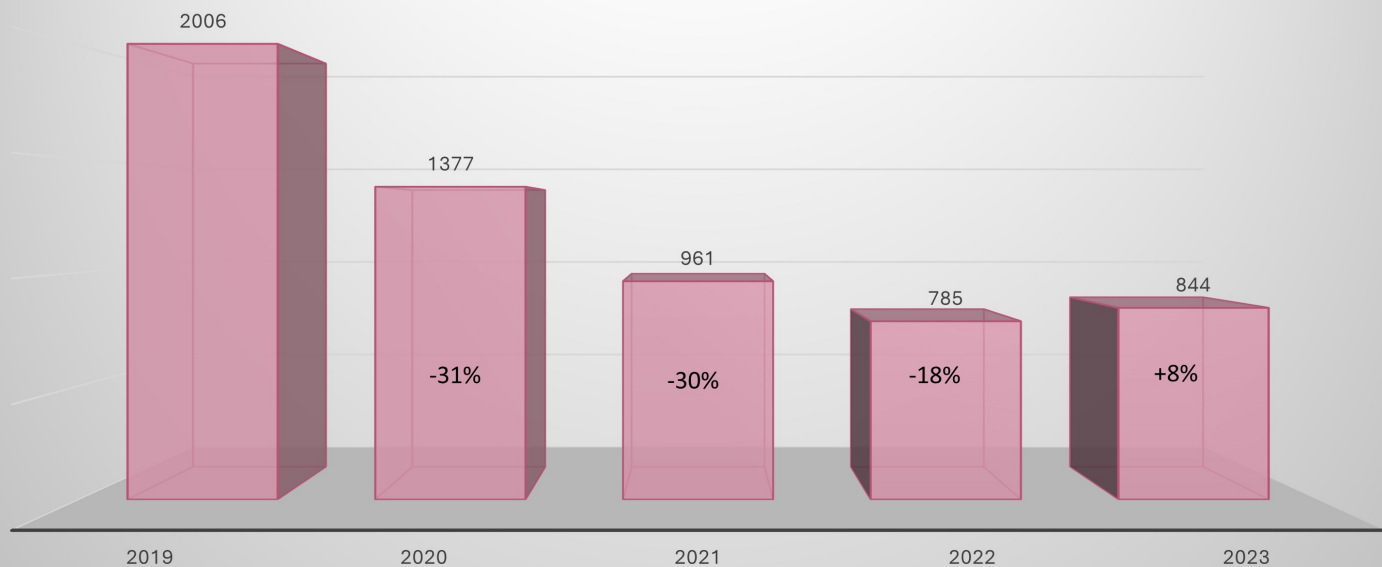
by Dina Fortes, ECF Analyst



CHAPTER 11 CASE FILING STATISTICS FOR 12-MONTH PERIOD ENDING DECEMBER 31



TOTAL CASE FILING STATISTICS FOR 12-MONTH PERIOD ENDING DECEMBER 31



UPCOMING COURT HOLIDAY CLOSING DATES

Memorial Day - Monday, May 27, 2024

Juneteenth - Wednesday, June 19, 2024

Independence Day - Thursday, July 4-5, 2024

Victory Day - Monday, August 12, 2024

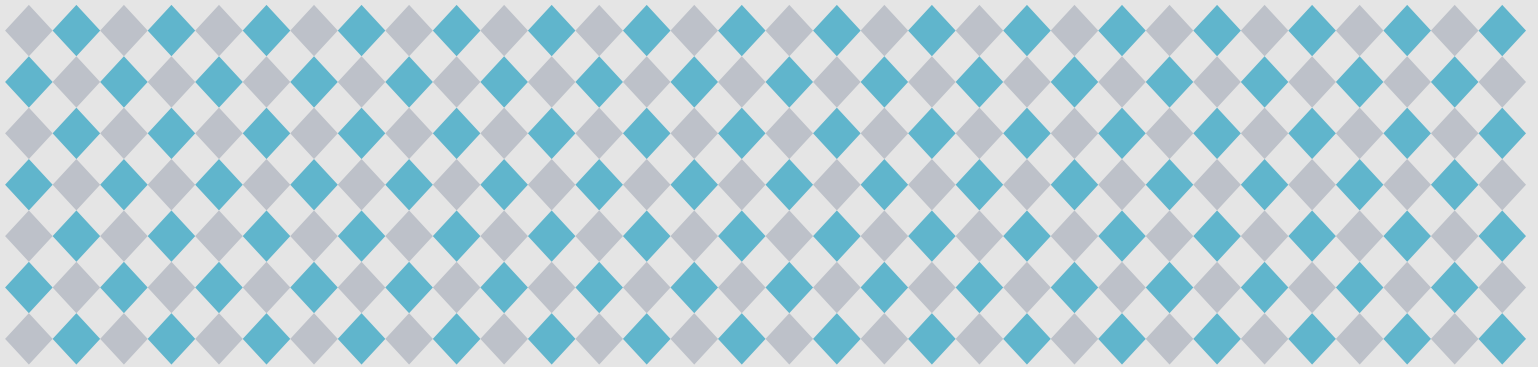
Labor Day - Monday, September 2, 2024

Columbus Day - Monday, October 14, 2024

Veterans Day - Monday, November 11, 2024

Thanksgiving Day - Thursday, November 28-29, 2024

Christmas Day - Wednesday, December 25, 2024



CONTACT 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: Christine_Lanni@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.

Clerk's Office: (401) 626-3100

E-Mail Address: rib_helpdesk@rib.uscourts.gov .

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