

Inner Workings: News and Advice

By Susan M. Thurston, Clerk of Court

**ON THE DOCKET**

Welcome to the fall edition of “*On the Docket*”. The court family is delighted that Judge Votolato has returned to the bench after a medical absence that lasted throughout the summer. In addition, we are tremendously appreciative and grateful to Chief Judge Boroff, of the Massachusetts Bankruptcy Court, for the judicial coverage he provided during this four month period. As those who appeared before him can attest, Judge Boroff was exceedingly thorough and efficient in managing the Court’s contested calendars, and was a terrific help in supervising the growing bankruptcy caseload during Judge Votolato’s absence. Thank you Judge Boroff!

As I reported in our last publication, this spring the courtroom underwent a partial facelift with the installation of a new ceiling and carpeting. New lighting was initially delayed but has now been completed and cannot be missed! While the new fixtures have taken us a bit of getting use to, and are quite large in comparison to the prior fluorescents, they offer superb lighting, which can be dimmed when necessary or brighten up the entire courtroom,

especially on grey New England days. There is one remaining project for this space; the replacement of the carpeting on the half walls with wood paneling. This work is scheduled to occur sometime in October and will be the final touch to a multi-year effort to update our bankruptcy courtroom for both functionality and decor.

Our Loss Mitigation program is approaching its one year anniversary and I thought this would be a good time to update our readers on how the program has been working. For the ten months that the program has been in effect (November 2009-August 31, 2010), 504 loss mitigation requests were filed, and 4,400 new bankruptcy cases were commenced. This represents approximately 11.4% of the filing caseload (although the actual percentage may be slightly lower as some of the requests were filed in cases already pending before November 1, 2009).

Of these 504 requests, 222 of them (or 44%) have been fully resolved. Sixty seven percent (67%) of the requests resulted in the loss mitigation order either being terminated, withdrawn or the case dismissed.

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Thirty three percent (33%) of the requests resulted in a successful loan modification agreement being approved by the Court. Thus, seventy three (73) Rhode Island homeowners were able to successfully modify their mortgages, stay in their homes and avoid foreclosure. The Court is currently partnering with the RI Bar Association to offer a training program on the court's loss mitigation program, as well as on the federal Making Homes Affordable program. Guest speakers from the Department of Treasury and Justice Department will be joining us to discuss how these programs work, to highlight recent changes and where to find the right resources to assist your clients in successfully modifying their mortgages. The date of the training is Tuesday, November 16 at the Rhode Island Law Center. Please look for the RIBA CLE brochure in the mail shortly; information will also be posted on our website.

As I mentioned in our spring edition, the Court has embarked on a public outreach effort to help train Rhode Island teenag-

ers about financial literacy. The program, called CARE (Credit Abuse Resistance Education), will be presented in high school classrooms throughout the state by volunteer attorneys and court staff. We now have a CARE page on our website for educators to request the training and we are just beginning to start scheduling classes. For anyone interested in participating in this community outreach effort, please contact Training Coordinator, Janet Tessier, at 626-3111, or by email at Janet.Tessier@rib.uscourts.gov. You can also learn more about the CARE program at <http://www.careprogram.us/>.

Lastly, we would like to say goodbye to our two chambers law clerks, who are moving on in the coming months to new opportunities. Abby Sneed, who was just recently married on September 5, 2010 (congratulations Abby!), will be moving to Chicago, to join her new husband and begin her married life. Erika Lindberg will be leaving the court in late September to join the law firm of Edwards Angell, Palmer & Dodge in Providence. Both Abby and Erika have been tremendous assets to the Court during this past year and

will be missed dearly; both professionally and personally – good luck to both of you! Fortunately, we are pleased to announce that a new law clerk will be arriving next month. Stacie McHale has been serving as a temporary law clerk to Bankruptcy Judge Frank Bailey in Massachusetts for the past year and a half. Prior to that, she was a practicing attorney in Massachusetts concentrating in consumer cases for several years. Please join me in welcoming Stacie to the Rhode Island Bankruptcy Court.



Stacie McHale, Career Law Clerk

Thank You Abby and Erika!
Welcome Stacie!

Decision To Watch

By Erika Lindberg, Esq., Law Clerk

When the U.S. Supreme Court's new term begins on October 4th, it will address an issue that has seen extensive debate and treatment in the bankruptcy courts. This case is definitely one to watch.

Ransom v. MBNA, American Bank, N.A., Docket No. 09-907

Scheduled for Oral Argument: October 4, 2010

Decision below: 577 F.3d 1026 (9th Cir. 2009)

Question Presented: Whether, in calculating the debtor's "projected disposable income" during the plan period, the bankruptcy court may allow an ownership cost deduction for vehicles only if the debtor is actually making payments on the vehicles.

A three-judge-panel on the 9th Circuit Court of Appeals affirmed the decision of the bankruptcy court and the Bankruptcy Appellate Panel, holding that the debtor could not deduct from his projected disposable income a vehicle ownership expense for a vehicle that he owned free and clear of liens. Bankruptcy courts throughout the country have come down on both sides of this issue and it will be another opportunity to see how the Court interprets the term "projected disposable income."

It will be recalled that "projected disposable income" was the topic of the U.S. Supreme Court's recent decision in *Hamilton v. Lanning*, 130 S.Ct. 2464, 2478 (2010), where the Court held that "when a bankruptcy court calculates a debtor's projected disposable income, the court may account for changes in the debtor's income or expenses that are known or virtually certain at the time of confirmation." In *Ransom*, projected disposable income and how it is calculated will again be the focus of the Supreme Court's scrutiny.

Holiday Closings

The U.S. Bankruptcy Court will be closed on the following days:

Monday, October 11th—Columbus Day

Thursday, November 11th—Veteran's Day

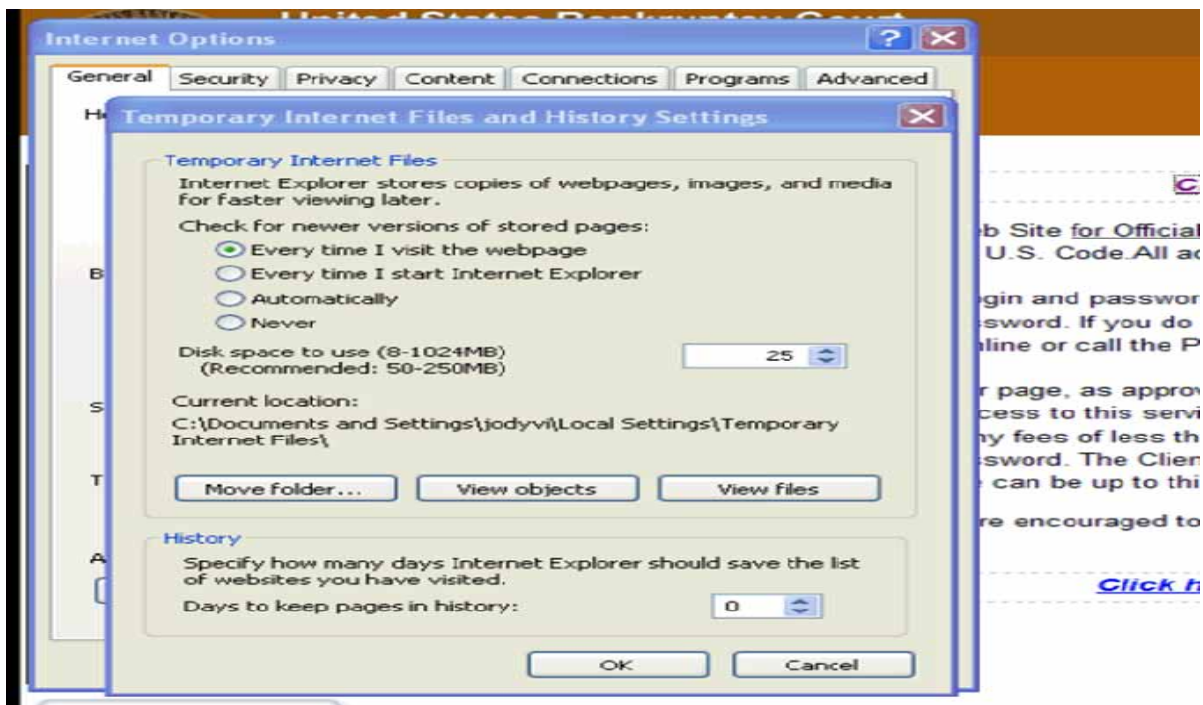
Thursday, November 25th—Thanksgiving Day

Friday, December 24th—In observance of Christmas Day

Tips and Traps

By Dina Fortes, Case Manager and Jody Venuti, Quality Assurance Specialist

- When filing Loss Mitigation Status Reports, make sure to select all filers and link to the original Order granting Loss Mitigation. Make sure to open and check all documents prior to filing, verifying that the correct document is being filed in the correct case and that the correct event was used.
- If e-mail is down and it is believed some Notices of Electronic Filing were not received, the missing notices may be accessed through Summary Reports. In the CM/ECF Menu, select Reports, then Summary Report. Using the drop down boxes, select the date(s) believed to be missing. All NEF's from selected dates will be e-mailed to the requestor.
- Having trouble paying fees through Pay.gov? The court receives frequent calls from users who are having trouble paying their ECF fees through pay.gov. Most often the reason is that the user is blocking pop-ups from our site. Pop-up blocking features must be disabled when paying filing fees. You may reactivate the feature once you have left CM/ECF.
- Often we receive calls from users complaining that that the Bankruptcy and Adversary options are missing from their ECF Toolbar. Most often, the reason is because they are still viewing through PACER, not CM/ECF. Users can avoid this problem by clearing their cache often and setting their internet history settings to check for the newest versions of stored pages. This is done through Internet Options located in the Tools bar in Internet Explorer. Please see the example below.



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Tips and Traps Continued from page 4

- Be on the lookout for Edit/Notify in the subject line of your emails because on September 20, 2010 the Clerk's office changed its method of notifying external filers of certain types of case corrections. The current method of entering "corrective entry" on the case docket will be replaced with the automated process of "Edit/Notify". Case participants will continue to receive an NEF (Notice of Electronic Filing), but the reason for the edit/correction will be noted in the description section of the NEF. A separate "corrective entry" event will no longer be entered on the docket in the majority of circumstances that require a case edit.

Rhode Island Bankruptcy Court Employees Travel to Washington, D.C.

By Amy Geraghty-Seale, Operations Supervisor

In August, employees from the Rhode Island Bankruptcy Court traveled to Washington, D.C. to attend the 10th annual Bankruptcy Operational Practices Forum. Over 600 court employees attended the Operational Practices Forum, some travelling from as far away as Guam!

The Operational Practices Forum is an educational program which facilitates the communication and documentation of successful operational practices and procedures among all bankruptcy courts. The forum is a joint venture between the Administrative Offices of the U.S. Courts, Bankruptcy Court Administration Division, and the Federal Judicial Center who work hard collaborating every year to bring this educational forum to the courts.

This year, the "Ops Forum" had a set agenda of approximately fifty topics, and also utilized an "open space" meeting concept which allowed attendees to nominate topics and then attend those topics which interest them, thus ensuring that relevant issues are addressed. The topics covered procedures and strategies affecting the Clerk's office, Chamber's staff, and systems department. Topics included: loan modification programs; CM/ECF release 4.0 highlights; draft Federal Bankruptcy Forms and Rule amendments; Internal Controls; and the U.S. Trustee's role in the bankruptcy process. Each topic was covered by a subject matter expert recruited from various bankruptcy courts around the country.

Items of special interest for the Rhode Island Bankruptcy Court were two quality control software programs locally developed and demonstrated by Maryland and Oklahoma Western bankruptcy courts. These software programs streamline the court's quality control process, provide reports for case managers and management, and identify training areas for both court staff and external filers. The Clerk's Office staff gathered and analyzed information on both programs, and presented their data to the court upon their return. After review, the Clerk's Office staff decided that Oklahoma Western's Quality Control Program [QCP] best met its needs. Testing of this program will begin early next year.

While the Operational Practices Forum is a valuable tool for bankruptcy courts to formally share and receive information, equally valuable are the informal contacts and discussions with our peers. These interactions reveal a common thread among all bankruptcy court attendees; the quest for more creative and efficient ways to serve the public.

16th Annual Employee Recognition Ceremony

By Gail Kelleher, Chief Deputy Clerk

September 24th marked the occasion of the court’s 16th annual Employee Recognition Ceremony (ERC). The purpose of this program is to recognize, acknowledge and express appreciation to all court employees for their dedicated service and outstanding job performance. While you may have a general idea of the day to day activities of court staff, ERC recognizes those duties and all the “other duties that may be assigned”, including: project-related work, involvement in local and national committees, training of the bar and court staff, personal development, court outreach programs, learning new computer applications and implementing local and national initiatives to improve service to the public.

Each year, one employee is selected by his/her peers to receive the Sustained Superior Performance Award. You may never have spoken with this year’s recipient, but she is an integral part of court operations. April Elderkin joined the court in 1992 and was promoted to Financial Administrator in 1995. She manages all funds received by the court in accordance with the Administrative Office’s strict financial accounting system and reporting requirements. April’s work is the subject of an intensive audit periodically, and her lack of audit findings is a testament to a job well-performed. Bankruptcy Trustees: April is the per-



son that authorizes your monthly payments! In addition to her financial duties, April is the court’s Travel Coordinator, Postage & Inventory Manager, and Parking Coordinator. She is also one of the most pleasant people you will ever have the pleasure to encounter at the court. Congratulations April!

Several court staff received longevity awards this year. Both Susan Thurston (Clerk of Court) and Holly D’Agostino (Courtroom Deputy) received their 20 year pins. Michelle McCurdy (Data Quality Administrator) and Anne O’Hara (Public Information Specialist) were also recognized for 30 years of public service. *That’s an incredible 100 years of combined institutional knowledge and commitment to serving the bar and citizens of the State of Rhode Island!* The next time you call or visit the clerk’s office, please take a moment to congratulate these dedicated and talented

individuals on a job well done.

Congratulations!

Federal Rule and Form Changes Effective December 1, 2010

The following new and amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms will become effective December 1, 2010. The amended rules and forms are as follows: Bankruptcy Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 7001, 9001 and new Rule 5012. Official Forms 9A, 9C, 9I, 20A, 20B, 22A, 22B, 22C.

Below is a brief summary of each change, but practitioners are advised to obtain a complete copy of the amendments and familiarize themselves of the changes. The rules and forms may be found on-line at www.uscourts.gov/rules/.

Federal Rules of Bankruptcy Procedure:

- Bankruptcy Rule 1007 (Lists, Schedules, Statements, and Other Documents; Time Limits) (shortens time for debtor to file a list of creditors after the entry of an order for relief in an involuntary case. Also extends time for individual chapter 7 debtors to file statement of completion of course in personal financial management)
- Bankruptcy Rule 1014 (Dismissal and Change of Venue) (includes chapter 15 cases in the rule that authorizes the court to determine where cases should go forward when multiple petitions involving the same debtor are pending)
- Bankruptcy Rule 1015 (Consolidation or Joint Administration of Cases Pending in Same Court) (includes chapter 15 cases in the rule that authorizes the court to order consolidation or joint administration of cases)
- Bankruptcy Rule 1018 (Contested Involuntary Petitions; Contested Petitions Commencing Ancillary Cases; Proceedings to Vacate Order for Relief; Applicability of Rules in Part VII Governing Adversary Proceedings (reflects enactment of chapter 15 in 2005)
- Bankruptcy Rule 1019 (Conversion of Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation) (with some exceptions, a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13)
- Bankruptcy Rule 4001 (Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements) (technical and conforming amendment on the computation of time)
- Bankruptcy Rule 4004 (Grant or Denial of Discharge) (is amended to: (a) include a new deadline for filing of motions (rather than complaints) under Rule 7001(b) objecting to a debtor's discharge; (b) direct the court not to grant a discharge if a motion or complaint objecting to discharge has been filed unless the objection has been decided in the debtor's favor; and (c) direct the court in chapter 11 and 13 cases to withhold the entry of the discharge if the debtor has not filed with the court a statement of completion of a course concerning personal financial management)

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Federal Rule and Form Changes (Continued from page 7)

- Bankruptcy Rule 5009 (Closing Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt Adjustment, and Chapter 13 Individual's Debt adjustment Cases) (amended to add new subdivisions (b) and (c) to the rule. Subdivision (b) requires the clerk to provide notice to individual debtors in chapter 7 and 13 cases that their cases may be closed if they fail to file a statement of completion of financial management course. Subdivision (c) requires a foreign representative in a chapter 15 case to file and give notice of the filing of a final report)
- NEW Bankruptcy Rule 5012 (Agreements Concerning Coordination of Proceedings in Chapter 15 Cases) (new rule establishing procedures in chapter 15 cases for obtaining approval of an agreement regarding communications and coordinating of proceedings with cases involving the debtor pending in other countries)
- Bankruptcy Rule 7001 (Scope of Rules of Part VII) (objections to discharge under §§ 727(a)(8), (a)(9), and § 1328 (f) are to be commenced by motion rather than by complaint, corresponding to the proposed amendment to Rule 4004)
- Bankruptcy Rule 9001 (General Definitions) (amended to add § 1502 to the list of definitions)

Federal Bankruptcy Forms: Official Forms 9A, 9C and 9I - Amended in the "Deadlines" section on the front and the "Discharge of Debts" section on the back. The changes conform to amendments to Bankruptcy Rules 4004 and 7001 that direct that certain objections to discharge be brought by motion rather than by complaint.

Official Forms 20A and 20B - These forms are amended to instruct the filer to list all names used by the debtor in the last eight, rather than six, years, and to redact not only the debtor's social security number, but also the debtor's individual taxpayer identification number.

Official Forms 22A, 22B, and 22C - These forms are amended as follows:

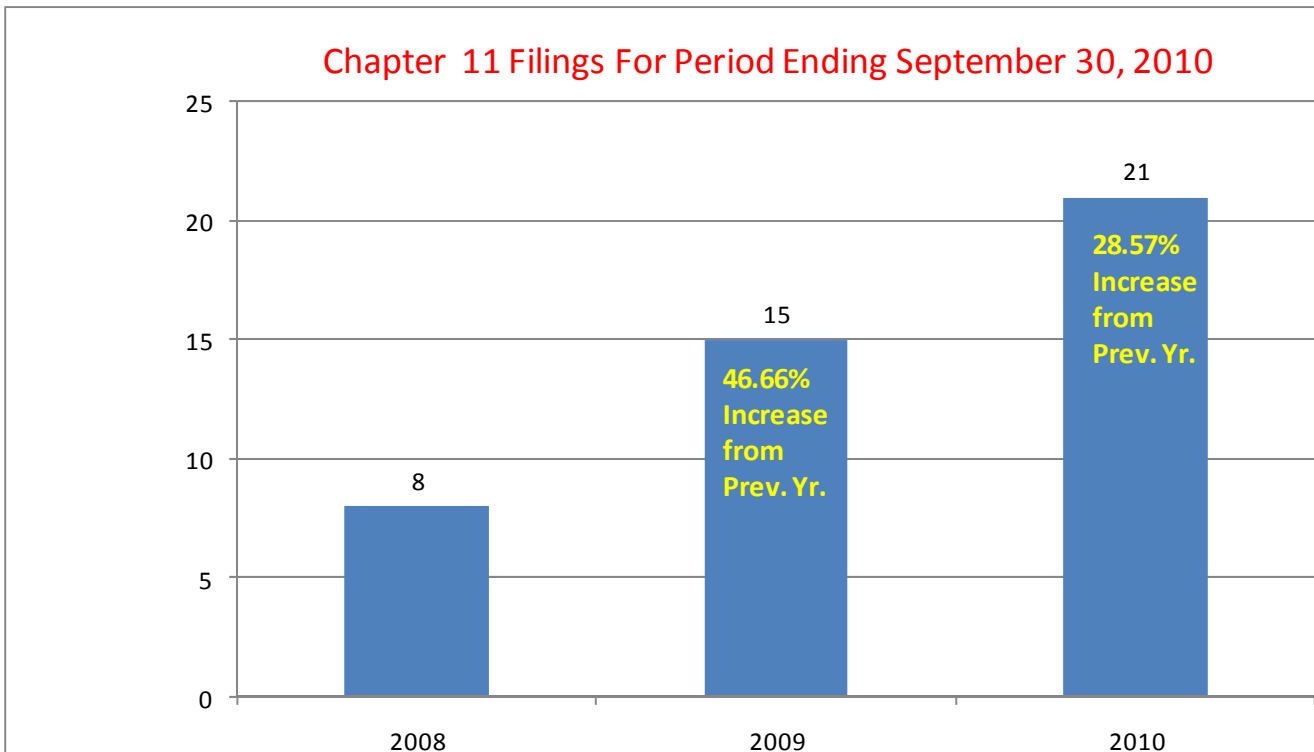
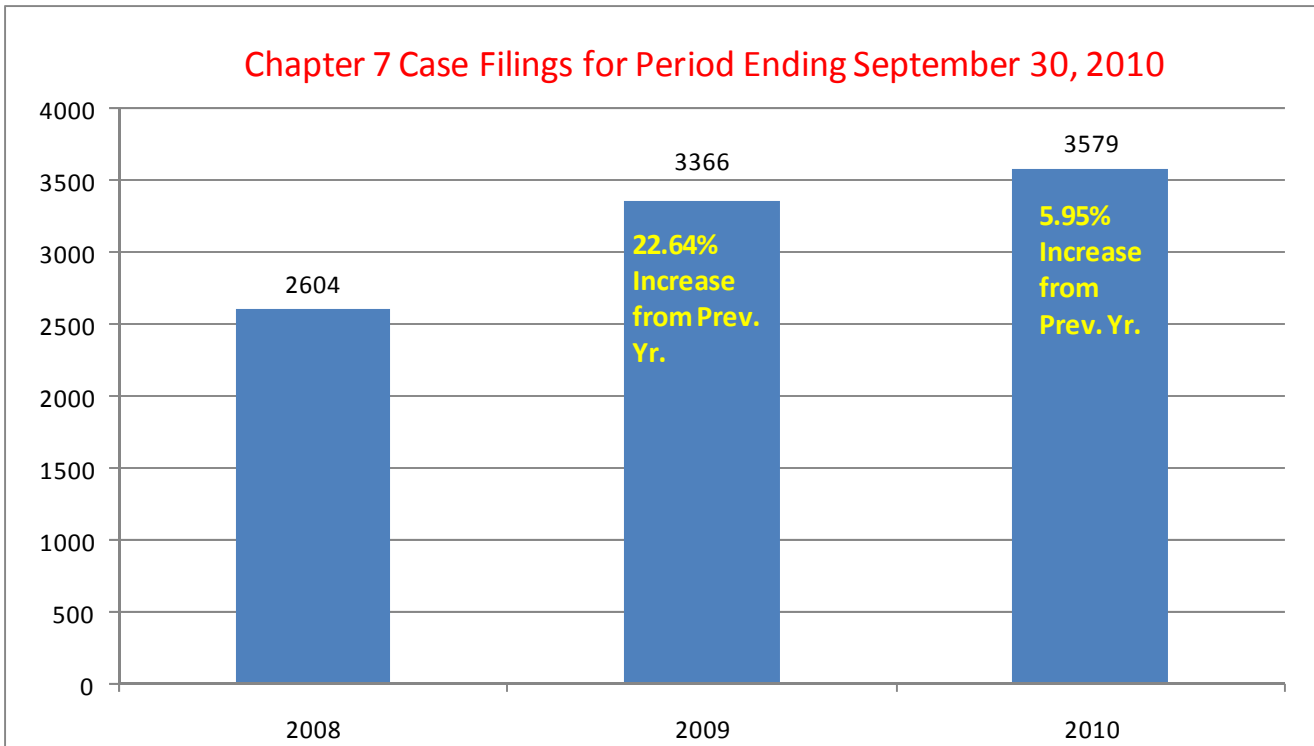
Forms 22A and 22C are amended in several places to delete references to "household" and "household size" and to replace them with "number of persons" or "family size." (Form 22A at lines 19A, 19B, 20A, and 20B; Form 22C at lines 24A, 24B, 25A, and 25B).

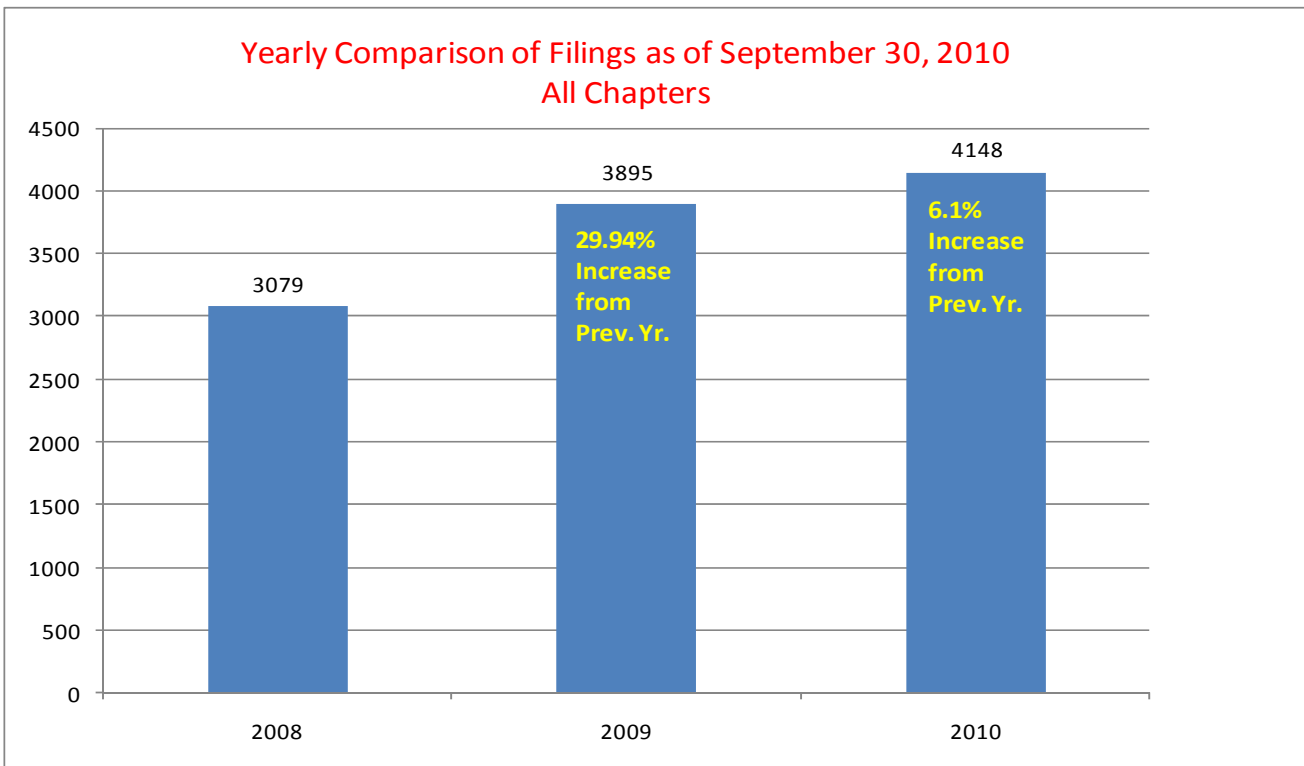
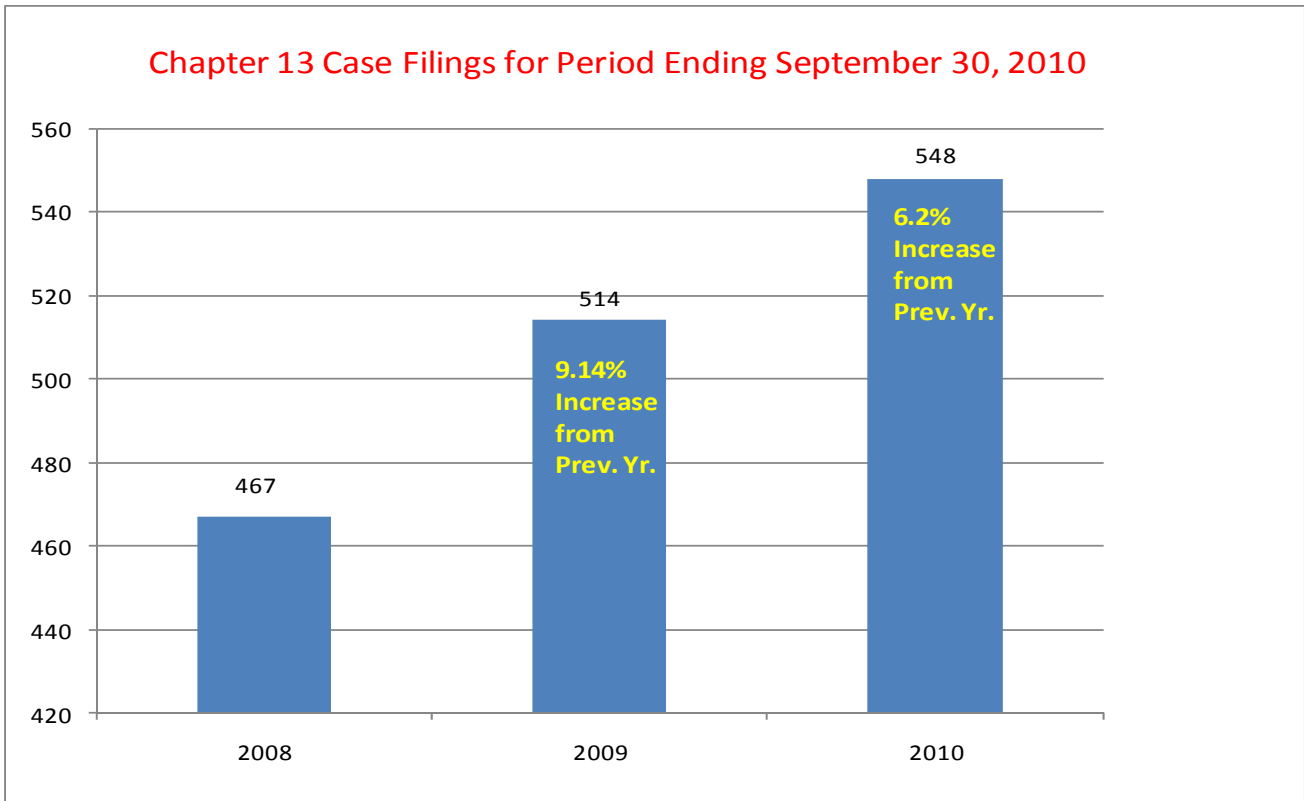
Form 22A is also amended to add an instruction to line 8 to clarify that only one joint filer should report regular payments by another person for household expenses. Forms 22B and 22C are similarly amended on line 7 of each form.

The Introductory instruction to Part I of Form 22A is amended to give debtors in joint cases the choice of filing separate forms if they believe they are required to do so by Sec. 707(b)(2)(C) of the Bankruptcy Code.

Official Form 23 The "deadlines" section of the form is amended to conform to amended Rule 1007(c)







Reduced Parking Rate at The Federal Center



Effective September 1, InTown Parking, Inc., and The Federal Center will offer visitors to the building discounted parking rates at InTown Parking operated lots.

The lots are located at:

- Lot 1: 357 Westminster Street (across from Federal Center between Snow and Aborn Streets).
- Lot 2: 80 Snow Street at Grace Church
- Lot 3: Chapel Street (Behind the Federal Center) at corner of Empire and Weybosset.
- Lot 4: Snow Street between Washington Street and Westminster Street

Valet service is offered by the parking attendant. The operator will utilize Lot #4 for any vehicle overflow that may be required. Signage will be posted to direct visitors to these lots when visiting The Federal Center. Discounts are offered Monday through Friday 8:00 a.m. until 4:00 p.m. as follows:

- \$2.00 off their normally posted rates (up to 2 hours)
- The daily maximum rate for any visitor will not exceed \$9.00 per day for parking up until 4:00 pm.

In order to receive a discounted parking rate, visitors to The Federal Center must have their parking ticket validated. Bankruptcy Court customers may have their tickets validated at the desk opposite the elevators on the 6th floor.

Coming Soon: Financial hardship can take a serious toll on a person's health. To assist debtors who may have mental health issues as a result of their financial situation, the U.S. Bankruptcy Court for the District of RI is in the process of developing an "Emotional Support Resource" page on its internet site which will be available to the public within the next few weeks. Please share with your clients, or with anyone feeling the effects of financial or economic problems.

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