

Inner Workings: News and Advice
by Susan M. Thurston, Clerk of Court

Welcome to another edition of *On the Docket*, our quarterly newsletter for the Rhode Island Bankruptcy Court. Some recent court developments to report include the departure of staff member Joseph Wilkicki, who many of you knew as Judge Votolato's digital sound recorder in the courtroom. Joe has transferred to the Department of Homeland Security and has moved to North Carolina where he will serve as an immigration agent. Other important news includes the Clerk's office's commencement of quarterly conference calls with interested attorneys and their staffs to review changes in court procedures, rules, forms and CM/ECF events, and to answer any common problems or concerns in the use of the electronic case management system. We hope this forum will serve as an excellent communication tool between the court

and our customers. For further information about this new service, please contact either Holly D'Agostino or Linda Spaight.

In May, I published an article in the American Bankruptcy Institute Journal entitled "**Behind the Numbers: The New Workload of the U.S. Bankruptcy Courts:**

Fewer Cases, Added Paperwork, Increased Customer Service". Included below are excerpts from this article to keep you informed of the current situation.

"This article will discuss the most prevalent *new* work tasks being performed by the clerk's offices and the change in the nature and type of work being performed."

The New Requirements

The credit counseling prerequisite and



means test requirement in post BAPCPA chapter 7 cases has added several new work tasks to bankruptcy clerk's offices. Individuals filing bankruptcy must now be informed by the court of the need to undergo credit counseling before they submit their bankruptcy paperwork to initiate a new case. Failure of a debtor to accurately comply with this prerequisite may result in the dismissal of the case or striking of the petition and the loss of the filing fee. *See, Adams v. Finlay*, Slip Copy, 2006 WL

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3240522, S.D.N.Y., November 03, 2006 (Nos. 06 Civ. 6039(CLB), 06-6040, 06-6041, 06-6042, 06-6075, 06-6077); *In re Ruckdashel*, --- B.R. ---, 2007 WL 841592, *Bkrcty.D.Idaho*, March 20, 2007 (No. 06-40576-JDP). Information as to where to obtain these services must be provided by the clerk's offices, both in the public areas as well as in electronic form on court websites. As the providers of these services change frequently, the bankruptcy courts routinely research and update the paper and electronic versions of this information for the public's use.

The new means test requirement in chapter 7 and disposable income and commitment period analysis in chapter 13, Official Forms 22A and 22C respectively, mandate a lengthy new financial analysis and calculation for individual debtors to complete, and concordantly, require bankruptcy clerk's offices to collect, track, docket, quality control and process these papers according to local procedure. Completion by the filers of several of the new forms require use of census bureau data and data from Internal Revenue Service, which bankruptcy courts provide and update as necessary in hard copy and electronically for public use.

The complexity of the means test process (and the number of documents that must be consulted in order to complete the necessary form) requires clerk's offices to spend a great deal of time assisting pro se filers as well as less experienced bankruptcy attorneys in understanding the procedural requirements in order to file the correct means test forms.

Additionally, the substantial changes in the law similarly necessitated extensive bankruptcy form additions and changes -- nine new Official Forms, amendments to 33 existing Official Forms, and ten revised Director Procedural forms. Thus, much time and effort continues to be expended by clerks in educating the public and the bar on the availability of these new forms, in continually updating public areas and websites with the newest versions and notably, in monitoring the filings to ensure that the correct version of the forms are being used.

Other significant BAP-CPA changes that have directly impacted the work of the clerk's offices include the new financial management training requirement, the automatic dismissal of cases, modifications to the application of the automatic stay, the availability of *informa pauperis* status and the increasingly complex reaf-

firmation agreement process. From my experience in Rhode Island, each of these changes has lead to an increase in the number of motions filed per case resulting in additional docketing or quality control tasks, added case deadlines, monitoring and follow up activities (*e.g.*, the discharge cannot be entered unless and until the certificate of financial management is filed). What's more, such requirements trigger increased notices issued and hearings scheduled followed by a rise in orders entered per case. Not surprisingly, all of these new work tasks result in an increase in the ratio of events, orders and notices per case to the number of case filings. At this time, detailed empirical data has not been collected on a nationwide basis, but upon review of data from my own court (Rhode Island Bankruptcy) and through informal discussion with my colleagues, these workload trends appear to be similar in nature throughout the country.



(Continued on page 3)

(Inner workings cont. from page 2)

Caseload Mix and Pro Se Filings

Another trend that we are finding in our district is that the mix of cases filed between chapters 7 and 13 is shifting with a much higher percentage of cases being filed under chapter 13 than has historically been true. Chapter 13 cases demand a much greater amount of clerk's office resources as they involve claims administration and the filing, noticing and hearings associated with the confirmation process, as well as a much longer overall administration period.

So too, we have experienced an increase in the percentage of pro se filed cases from pre-BAPCPA days. Obviously this condition varies across the country but given the increase in fees and attorney costs and what appears to be a reduction in the number of attorneys practicing in the field, this result is hardly surprising. What it does mean however, is that a substantial time investment be made by clerk's office staff both at the

intake counter as well as on the telephone to impart filing and procedural instructions to individuals who are overwhelmed by the complexity of the process during a dire financial time in their lives. Dealing with such persons requires extreme patience, empathy and competence.

Electronic Filing

One final area to discuss when reflecting on the impact of BAPCPA on clerk's office workload is with our electronic filing systems. The bankruptcy courts have been extremely well served by our CM/ECF systems and in being able to provide access to our electronic databases twenty-four hours a day, seven days a week. The use of these systems has enabled the courts to become much more efficient in case administration, noticing and customer service. No one would care to imagine how the clerk's offices would have handled the deluge in case filings leading up to the October 17, 2005 effective date without the use of these electronic systems. Nevertheless, the new complex-

ity of the legal requirements, rules and forms required in bankruptcy has lead to greater difficulty in the accurate use of these systems by our external filers requiring additional work by the clerks to correct filing mistakes. This situation has grown worse with the recent statistical reporting requirements that went into effect in October 2006. Many, if not most, bankruptcy courts had to rewrite numerous dictionary events in order to properly capture the statistical data that Congress has requested. In doing so however, this meant breaking apart menu events that attorneys and their staffs had come to know. These recent database changes necessitated updated filing instructions, a re-training of certain events and/or additional education to attorneys on the use of the modified CM/ECF system. From an internal perspective, these changes also result in an increase in quality control and correction work due to the frequent filing mistakes in the system.

We are pleased to announce that the 2007 Edition of the R.I. Bankruptcy Rules and Forms is now on sale for \$10.00 a copy. This bound, soft cover book includes all the rule and form changes since BAPCPA, and is a must for bankruptcy practitioners and their staff!

Please visit the Clerk's Office to purchase your copy, or complete the enclosed order form found on page 11 and return it to the Clerk's Office with your payment. In addition, for your convenience, credit card orders may be faxed or phoned in to the Clerk's Office.

Tips and Traps

by Cindy Cory, Courtroom Deputy

As we continue to train attorneys and staff for electronic filing, we notice that many of the newly-trained attorneys may not be high-quantity filers. If there are long gaps of time between training and initial filings or between subsequent filings, there may be some uncertainty about the process. The CM/ECF page on our website contains an ECF Users' Manual, as well as a list of bankruptcy and adversary events including the categories under which they may be located. Also on the web page is the list of case managers with their case assignments and telephone numbers. We are always ready to help with any questions or problems that may arise.

In an effort to help practitioners navigate the system more easily, we have asked case managers to provide a list of the most commonly made mistakes and offer suggestions of how best to avoid them. Here are some of the responses:

1. **The wrong .pdf image has been attached to the event.** You can view the image to be attached by using the right button of your mouse prior to associating the document to your filing. Once you have verified the image, simply close (x located in the upper right corner) and continue with your filing.
2. **The schedules list many creditors but notices have only gone out to a few.** Often, when a skeletal petition is filed, only a small amount of creditors are known and these are uploaded into the creditor database upon filing. Later it is discovered that there exist additional creditors and the attorney includes these in the schedules when filed. This situation requires the filing of an amended matrix, uploading creditors' names and addresses into the database, and payment of the \$26.00 filing fee. Moreover, it is the debtor's responsibility to then provide these added creditors with notice of the bankruptcy filing by mailing a copy of the Meeting of Creditors to them. Please do not add creditors through creditor maintenance without filing either amended schedules or the amended matrix. Case managers will be running a daily report to check activity in this database.
3. **The debtor names/ information on the image do not match the docket.** When filing your voluntary petitions, be sure to check the spelling of names, and add alias names, DBAs, middle initials or middle names.
4. **Unsigned Amended Mean Tests.** Please include the signature of the debtors in the /s/ format and remember that all amendments require local form P-4 to be conventionally filed with original signatures.
5. **A document is filed using the wrong event.** As stated above, please refer to the ECF Users' Manual if you are unsure as to which event to use for the filing of a particular document.
6. **A document is linked incorrectly.** Often filers link their motions to continue to the Court's Notice of Hearing. When filing a motion to continue, please remember to associate it with the matter being heard, for example, a motion for relief from stay or a Chapter 13 Plan.
7. **Incorrect party filers.** When filing joint pleadings, remember to choose two party filers. Also, if you file payment advices for both debtor and co-debtor as one pleading, choose both parties as filers. If you only file payment advices for one debtor, only choose that debtor as the party filer.

Fortunately, errors seem to decrease as practitioners become more familiar with the system and more adept at filing. With practice and a little effort, the number of corrective entries and orders striking defective documents will decrease or be eliminated.

Making Internet Payments Through Pay.gov

by Jody M. Venuti, Quality Assurance Specialist

Recently several users have reported difficulties processing payments through CM/ECF. The following hints may be helpful in identifying existing impediments and allow the user to do a little troubleshooting on their own:

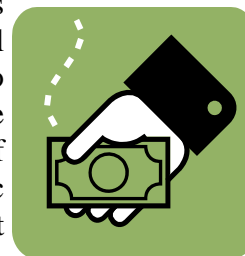
1. Payments can only be processed through Internet explorer
2. The payment screen can only be viewed if you are ALLOW-

ING pop-ups from our website.

3. Payments are required to be made within 48 hours of filing or you will risk being locked out of our system; additionally, your pleading may also be stricken by the court.

REMINDER TO NEW USERS: 30 days after becoming a registered e-filer, you will no longer receive paper notices (with the exception of 341 notices and discharges). All other notices will be sent to the email you specified

in your account. If you believe that you have missed any Notices of Electronic Filings, you may retrieve them through the Reports Menu. Go to Reports> Summary Report. Using the drop-down boxes, choose the date(s) in question. This report will allow you to review all the notices of electronic filings that have been sent to your account.



The Biggest Loser Challenge

by Leah Waterman, Judicial Assistant

Anyone who stops by the Clerk's Office and/or Chambers may notice that something has changed, but may not quite be able to figure out exactly what it is, so I thought I'd fill you in:

Beginning March 5, 2007, 18 people in the office thought it was the perfect time to stop talking about it and actually begin a weight loss program. We decided to make it fun by splitting up into 2 teams (randomly chosen) who would individually start a diet and/or exercise program. The participants would be subject to a weekly weigh-in (in



private) before the WeightMaster (me). The Challenge would continue for 11 weeks, ending with the final weigh-in on May 25. The guidelines stated that the team with the higher percentage of weight lost would be the winning team, and we thought that it was only fair that the person on the losing team with the highest percentage of weight lost would also share in the winnings. Judge Votolato and Susan Thurston generously approved the incentive for the winners: Friday afternoons off for the month of June! Such a terrific way to begin the summer season.

Needless to say, we all adhered to a strict diet for those 11 weeks, weighed in once a

week, with the WeightMaster keeping track of everyone's progress on a spreadsheet and issuing weekly team results. Ultimately, **Team B was announced as the winning team** losing 5.79% of their starting weight; Team A was close behind with 5.21%; and **Kristen Batty** with an 11% weight loss had the individual highest percentage on Team A. We've become so motivated that even after the Challenge ended, some of us are still trying to lose more weight. Both teams worked really hard and deserve congratulations on their accomplishment.

So when you visit our office now and think there's something different, there is. I'm happy to report that the office is an **amazing 169.8 pounds** lighter!

New and Improved Knowledge Base Coming Soon to our Web

by Michelle M. McCurdy, Quality Assurance Administrator

The Court is currently in the process of populating a new and improved Knowledge Base for our external filers. Our goal is to provide our ECF filers with the most up-to-date information to help them with any procedural or technical questions they may have.

The KB will be packed with a lot of helpful information including, but not limited to the following areas: how to file certain pleadings, fee and service requirements, Local Rules as well as some limited technical information.

Some of the Knowledge Base features include:

1. A search feature that will allow users to locate information in various ways, i.e., by word, topic, phrase, title, etc.

2. The most popular articles as well as the latest additions are displayed on the KB's home page.

3. A feature allowing users to add comments to the articles, and rate their usefulness

If a user cannot find the information they need in the Knowledge Base, they can post a question. The Clerk's Office will research the subject and provide the inquirer with an answer. The question and answer will then be added to the KB. **Remember: Case specific questions are to be directed to the case manager or Operations Team and not posted to the KB!**

STAY TUNED FOR MORE DETAILS!!!

Here is a sneak preview of our new Knowledge Base:



United States Bankruptcy Court
District of Rhode Island

Judge Arthur N. Votolato
Clerk of Court Susan M. Thurston

The Federal Center
380 Westminster St, 6th Floor
Providence, RI 02903
(401) 626-3100 / Main
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KNOWLEDGE BASE

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- Fees
- General CM/ECF
- Local Rules & Forms
- Motions/Responses
- Technical
- Trustee

Most Popular Articles... Last Modified

- [Q10003 - INFO: AVOID LIEN: On whom is a motion to avoid lien served?](#) 3/19/2007 12:05:00 PM
- [Q10004 - INFO: PAYMENT OF FEES: Can I pay for electronically filed pleadings in person at the clerk's office?](#) 6/6/2007 10:07:00 AM
- [Q10005 - INFO: ADVERSARY FEE: When is the Plaintiff Exempt from Paying a Filing Fee?](#) 6/6/2007 2:19:00 PM
- [Q10000 - INFO: Welcome To InstantKB.NET v1.3](#) 3/12/2007 2:10:00 PM

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- [Q10005 - INFO: ADVERSARY FEE: When is the Plaintiff Exempt from Paying a Filing Fee?](#) 6/6/2007 2:19:00 PM
- [Q10004 - INFO: PAYMENT OF FEES: Can I pay for electronically filed pleadings in person at the clerk's office?](#) 6/6/2007 10:07:00 AM
- [Q10003 - INFO: AVOID LIEN: On whom is a motion to avoid lien served?](#) 3/19/2007 12:05:00 PM

Attorney Quarterly Conference Calls

by Linda Spaight, Case Administrator

On June 1st we held our first **Court-Attorney Conference Call**, a service we are offering on a quarterly basis in an effort to assist our ECF users with issues affecting electronic case filing. It was an informative success and instructions on how attorneys and/or their support staff may participate in future calls are included at the end of this article. Our next conference is scheduled for September 7, 2007 at 10:00 a.m.

Participating in this first call were: Michael Levin, Esq., Thomas Hemmendinger, Esq., Nelson Brinkerhoff, Esq., GERALYN COOK, Esq., Neville Bedford, Esq., MaryAnn Ryone (support staff to Jeffrey Brenner, Esq.). Court participants included Chief Deputy Clerk Gail Kelleher, Case Managers Holly D'Agostino and Linda Spaight, and Quality Control Analyst Michelle McCurdy. The topics covered

were suggested by the participants in advance and the court personnel followed those items with a discussion of the three of the most commonly made mistakes and ways to avoid them.

The call lasted approximately forty-five minutes. A summary of topics and responses are captured below in chart form in order that they may be easily referenced in the future. We've also included a flowchart regarding modifications to creditors in bankruptcy cases. The chart demonstrates which events to use and instances when a \$26 fee is required. This flowchart can be found on page 10 of this issue and will be available on our website in the ECF User Manual & Resources section at www.rib.uscourts.gov.

The one item that is not on the list and which was a corollary topic which arose at the end of the call, was the is-

sue of writable pdfs, and in particular, the Proof of Claim form (Official Form B10). Some users have experienced difficulty editing and saving the form from our website. Sometimes this can occur if the user does not have the full version of Adobe Acrobat Writer and is accessing the document using Acrobat Reader instead of Writer. A quick check of your program can verify this.

We thank each of the participants who contributed valuable time and information to this conference call forum; we thank you for suggesting it and for your participation which made it a success.

In order to take part in future conference calls, please refer to our website [\[CM/ECF - > Quarterly Attorney Conference Calls\]](#)

[2007 Employee Recognition Customer Service Survey](#)

If you have had exceptional service from a member of the clerk's office, why not have that person recognized at our annual employee recognition awards program held in September? Be sure to fill out the Customer Service Survey found on page 12 of this issue, or from our website, at www.rib.uscourts.gov

Continuity of Operations Plan

by Joe Wilkicki, Administrative Assistant

Since the tragic events of September 11, 2001, the Administrative Office of the U.S. Courts has made emergency preparation and training a priority. We all recognize that the essential functions of the Federal Courts must continue despite terrorism or natural disasters. With that in mind, this court began to create a Continuity of Operations Plan (COOP) that could be used in many different emergency situations.

Since this type of planning had never been done by this Court before, information on how to create a COOP was obtained from the Administrative Office of US Courts (AO), the Federal Emergency Management Administration (FEMA) Presidential directives, training seminars and working groups. Our COOP was written, reviewed, re-drafted and finally finished in 2005. The document contains all the information the Rhode Island Bankruptcy Courts needs to quickly and efficiently move our operations from its current location to an alternate

facility. Key employees have been identified in the areas of administration, purchasing, finance, chambers, operations and automation. These key employees have a complete understanding of their roles during any COOP event.

Back up office supplies and computer equipment vital to the operations of the court have been safely stored off site and are readily available for use at an alternate facility. Our automation staff has pre-loaded much of the necessary software on these computers to save time in bringing our office online in any new facility. Our goal is to be ready to serve the public and Bar in twelve hours.

On May 4, 2007, the court conducted its first tabletop exercise to evaluate and test the COOP document. Several different scenarios were presented to the participants who then discussed their response based on the positions they hold in the COOP. The purpose of this test was two-fold: First, find any flaws in the plan that need to be ad-

ressed and second, to make everyone in the office familiar with the activities that will occur if the COOP is activated - even if they have no direct role in the plan.

Unlike your favorite novel, the COOP will change from time to time. The COOP is a living document whose cast of characters will need to be updated; methods of communications re-evaluated with any change in technology; and equipment periodically upgraded with current software. Hopefully, like your favorite novel, there will be a happy ending if the COOP is ever activated due to the advance planning and dedication of the staff here at the court.



Editor's Note: Joe Wilkicki recently moved to North Carolina to become an immigration agent with the Department of Homeland Security. For questions concerning courtroom equipment, transcripts or CD's, please contact Jenn W. at (401) 626-6136

The \$26 Dollar Question: When Do I Pay the Fee?

by Gail Kelleher, Chief Deputy Clerk

Electronic Filers are often confused as to when the \$26 filing fee is required when modifying schedules or the list of creditors. There are two things to consider: 1) the type of amendment and 2) whether the Section 341 Meeting Notice has been sent to creditors. A \$26 fee must be charged when, *after issuance of the Section 341 Meeting Notice*, the schedules or list of creditors are modified by:

-Addition of Creditors/
Deletion of Creditors

-Change in the Amount of
the Debt

-Change in the Classification
of the Debt

The fee is assessed per filing. If an amendment contains more than one change to the list of creditors, only one \$26 fee will be charged. No fee is required for changes to either the address of a listed creditor or the addition of an attorney to a listed creditor.

The following scenarios address the most common instances in which the schedules/creditor lists are changed:

[Skeletal Bankruptcy Filed - No Creditors Uploaded](#)

If no creditors are uploaded at the time the bankruptcy is filed, the Court issues a 2-Day Notice for filing the matrix (Section 341 Meeting will not be scheduled). Within two days, load creditors using Creditor Upload in Creditor Maintenance. No fee will be charged.

[Missing Schedules D/E/F Filed](#)

If missing schedules are filed and creditors are added, deleted or modified as noted above, the filer must docket the Amended Matrix event (under *Other*) and pay the \$26 filing fee. It is the responsibility of the filer to serve a copy of the Section 341 Meeting notice on any added creditors.

[Amended Schedules/ Statements filed](#)

When docketing this event, filers will be asked whether or not creditors are being added. Replying “y” to the prompt will generate the \$26 fee payment

screen. It is the responsibility of the filer to serve a copy of the Section 341 Meeting notice on any added creditors.

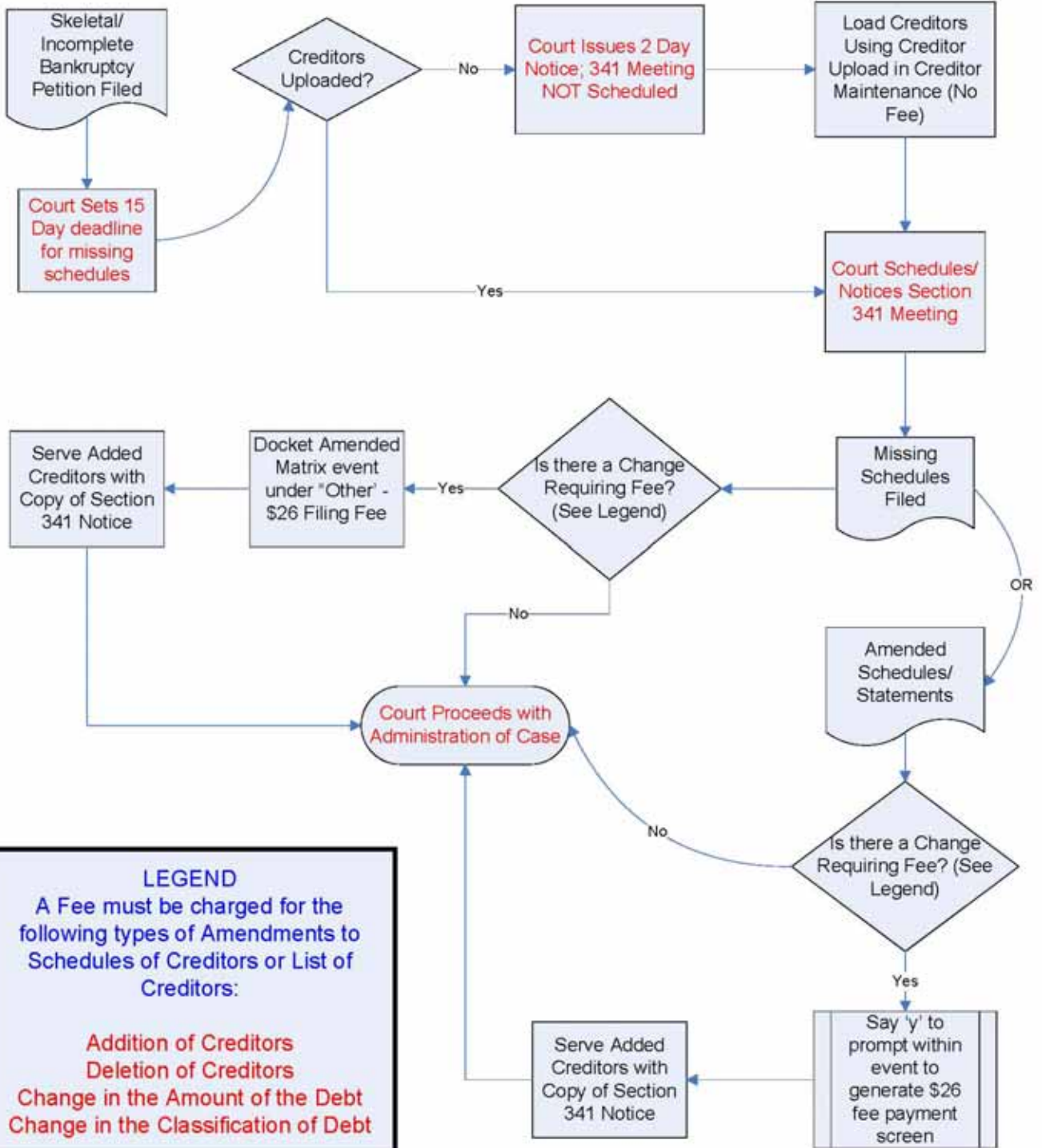
The Clerk’s Office staff will be monitoring all modifications to schedules and creditor lists to verify that the \$26 fee is collected when appropriate. Electronic filers who fail to pay the fee will be contacted by notice and locked out of the ECF system until payment is made. If you or your staff have any questions as to whether a fee is required,



please contact any of the Bankruptcy Court Clerk’s Office staff - they will be more than happy to assist you.

**Attorney Instructions
for Adding Creditors
Before/After
Issuance of Section
341 Meeting Notice**

Revised June 5, 2007





**Local Rules
now on sale!**

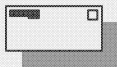
U.S. Bankruptcy Court
District of Rhode Island
380 Westminster Street
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United States Bankruptcy Court
District of Rhode Island

2007 Employee Recognition Customer Service Survey

Customer service and your satisfaction are the focus of the Clerk's Office. As we approach the occasion of our Annual Employee Recognition & Awards Ceremony, we ask you to assist in the selection process by nominating the employee whose efforts provide exemplary customer service. Please take a few moments and select the employee who you believe should be honored by circling one name in each of the categories below. After making your selection, you may include a brief statement as to why you feel the employee has earned this honor. Your participation in this survey is greatly appreciated. **PLEASE RETURN COMPLETED SURVEY TO US BANKRUPTCY COURT, 380 WESTMINSTER ST., PROVIDENCE RI 02903 BY JULY 13, 2007 (ATTN: GAIL), OR FAX TO GAIL AT (401) 626-3150**

General Counter/Phone Support

Anne Amy Carolyn Cindy Christine Holly JenD JenW Linda

Statement in Support of Nomination:

ECF Support

Anne Amy Carolyn Cindy Christine Holly JenD Jen W
Linda Craig Steve Jody Michelle

Statement in Support of Nomination:

Administrative/Court Related Support

Craig Steve Jody Michelle Kristen April Leah Jon

Statement in Support of Nomination:
