Bankruptcy Administration Improvement Act of 2020 (BAIA)

Effective January 12, 2021

United States Bankruptcy Court, District of Rhode Island

December 20, 2021

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Bankruptcy Administration Improvement Act (BAIA)

- The BAIA, <u>Pub. L. No. 116-325</u> (BAIA), was enacted on January 12, 2021.
- It amends the Bankruptcy Code to include a new subsection <u>330(e)</u> that establishes a new payment for trustees serving in chapter 7 bankruptcy cases.



 These payments are funded from chapter 11 quarterly fees collected by the Department of Justice (DOJ) and deposited in the United States Trustee System Fund.

BAIA Resources

• Pub. L. No. 116-325 (text of BAIA)

 Interim Regulations for Trustee Payments Under 11 U.S.C. § 330(e) (the Regulations) (found in Volume 13, Chapter 11, Appendix 11A) and on <u>www.uscourts.gov</u>



Court Webpage with <u>Training Materials</u>

§ 330(b) Payments vs § 330(e) Payments

- The <u>Section 330(b)</u> payment is funded by the filing fees collected in a chapter 7 case. Therefore, the §330(b) payment is dependent upon the filing fees being collected in order to pay the trustee in a particular case. This payment may also be impacted if the filing fees are waived pursuant to <u>28 U.S.C.</u> <u>1930(f)</u>.
- The Section 330(e) payment has a separate funding source not related to the collection of any filing fees. Thus, if the chapter 7 trustee is eligible, the trustee will receive the §330(e) payment on an annual basis, even if no or partial filing fees are collected in a case.

Section 330(e) Payments

- The amount of the <u>§ 330(e)</u> payment will be determined annually and will be limited by:
 - the availability of excess chapter 11 quarterly fee revenue and
 - the number of cases filed under or converted to chapter 7 during each fiscal year
- The amount of the <u>§ 330(e)</u> payment will be the lesser of:
 - \$60, or
 - a pro rata share of the excess quarterly fee revenue





Applicable Cases Under BAIA

- All cases filed under chapter 7 on or after January 12, 2021, and through September 30, 2026.
- All cases originally filed under chapters 11, 12, or 13 on or after January 12, 2021, and later converted to chapter 7 on or before September 30, 2026.
- The fiscal year 2021 applicable cases would be:
 - all cases filed under chapter 7 on or after January 12, 2021, through September 30, 2021, and
 - all cases originally filed under chapters 11, 12, or 13 on or after January 12, 2021, and converted to chapter 7 by September 30, 2021.

Applicable Cases Under BAIA, cont.

- For fiscal year 2021, Chapter 7 trustees will need to review all assigned cases filed on or after January 12, 2021 and through September 30, 2021 (or a case originally filed under chapters 11, 12, or 13 on or after January 12, 2021, and later converted to chapter 7 through September 30, 2021).
- Chapter 7 trustees will then need to retroactively make a claim for payment under <u>11 U.S.C. § 330(e)</u> by e-filing a "Trustee Services Rendered Pursuant to §330(e)" event to certify they are eligible for payment.

Eligible Chapter 7 Trustees

- Section 330(e) of Title 11 provides that the §330(e) payment applies to chapter 7 cases in which the trustee has "rendered services." <u>11 U.S.C. § 330(e)</u>.
- <u>The Regulations</u> follow the statutory language and provide that a chapter 7 trustee must have "rendered services" to be eligible to receive the new payment.
- "Rendered services" is evidenced when the trustee has performed certain duties and has certified that the trustee is eligible to receive the payment.

Rendered Services

Rendered services is evidenced by the trustee filing a certification with the court that the trustee has performed one of the following duties outlined in <u>11 U.S.C. § 704</u> and the Federal Rules of Bankruptcy Procedure in an applicable case:

- (A) Conducting or filing any document required by rule or statute related to a meeting of creditors required by 11 U.S.C. § 341;
- (B) Filing a report of no distribution;
- (C) Filing a notice of assets;
- (D) Filing a motion or notice to dismiss or convert the case or reviewing such a motion filed by another party in the case; or
- (E) Filing the chapter 7 trustee's final report.

See <u>Section 5 of the Regulations</u>.



Trustees Certification of Eligibility

- A trustee who has rendered services in an applicable case must make a claim for the <u>\$330(e)</u> payment.
- The chapter 7 trustee makes such claim by filing a certification with the court certifying that the trustee has rendered services in the applicable case.
- Being appointed as the trustee in an applicable case does not by itself qualify a trustee for the payment.
- New dictionary events (rendered services events) have been created for this purpose.
- Trustees MUST use these events to file or withdraw the certification.
- Further guidance is available on the PACER website.





Time for Filing Trustees Certification of Eligibility

- For fiscal year 2022 (Oct 1, 2021 to Sept. 30, 2022) through 2026, Chapter 7 trustees may make a claim for payment under <u>11 U.S.C. § 330(e)</u> by filing a "Trustee Services Rendered Pursuant to §330(e)" event to certify they are eligible for payment no sooner than seven days after the trustee has been notified of selection in a case. See, <u>Fed. R. Bankr. P. 2008</u>.
- The certification should be filed no later than 90 days after the later of the following two events:

(A) The judiciary posting the annual notice on its public website that payments can commence for the prior fiscal year; or

(B) The event that supports the certification that the trustee has rendered services under <u>subparagraph (a)(3)</u> of the Regulations.



New E-Filing BAIA Events

There are Two *New* Text-Only Filing Events for BAIA Fees

1. Trustee Services Rendered Pursuant to §330(e) – to be used by Chapter 7 trustees to certify that they are eligible to receive payment.

NOTE: Use of any other CM/ECF event will result in a delay in payment or failure of the Chapter 7 trustee being identified as eligible for payment.

 Withdrawal of Trustee Services Rendered Pursuant to §330(e) -- to be used by Chapter 7 trustees to withdraw the Trustee Services Rendered Pursuant to § 330(e) event.

NOTE: This is the only event that a trustee should use to withdraw the event "Trustee Services Rendered Pursuant to § 330(e)", which will remove the case from payment.

New E-Filing Docket Event: Trustee Services Rendered Pursuant to § 330(e)



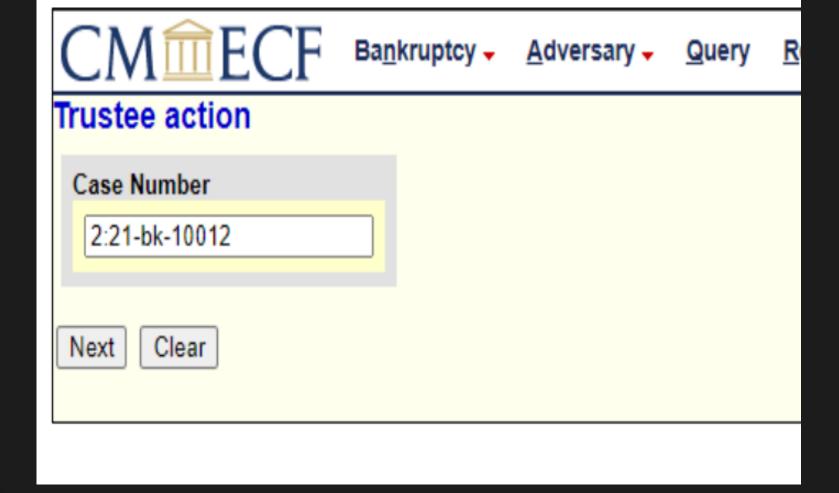
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1. Click Bankruptcy > Trustee/US Trustee menu:





2. Enter the case number	er:
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3. Select the Trustee Services Rendered Pursuant to 330(e) event:

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 Pending court configuration, filers may be prompted with the option to link the attorney/party. Deselect the check box and click Next:



6. Click Next

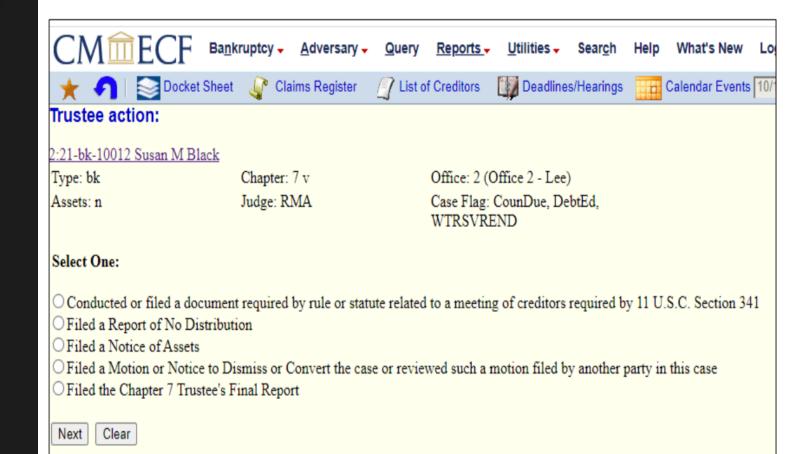
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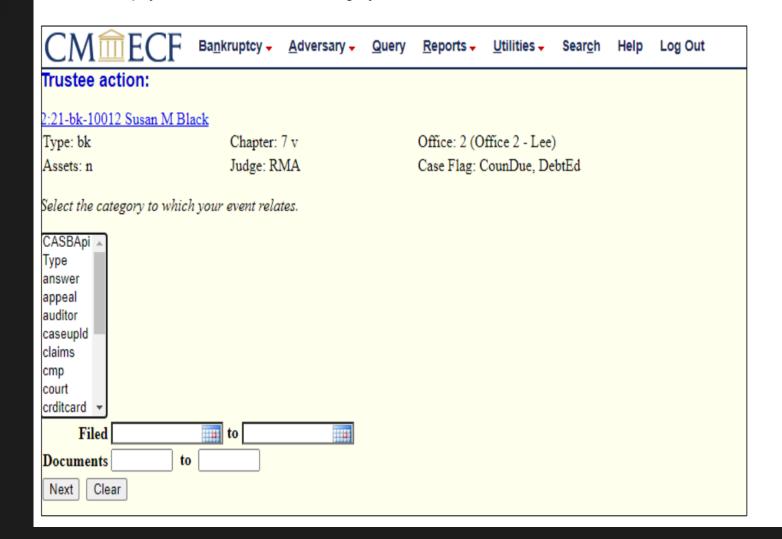


 From this menu, select the duty the trustee performed for certifying that the trustee has rendered services and is eligible to make the claim for payment:





8. Select the corresponding document or docket entry that supports the previous selection for certifying the claim for payment. First, select the category to which the event relates; click Next.



Second, select the appropriate event(s) related to the duty selected previously for certifying the claim for payment; click Next:

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New E-Filing Docket Event: Withdrawal of Trustee Services Rendered Pursuant to §330(e)

- If necessary, Chapter 7 trustees may withdraw the event *Trustee Services Rendered Pursuant to* §330(e) by filing a *Withdrawal of Trustee Services Rendered Pursuant to* §330(e) event.
- This is the only event that a trustee should use to withdraw the *Trustee Services Rendered Pursuant to § 330(e)* event.
- Chapter 7 trustees cannot withdraw a *Trustee Services* Rendered Pursuant to § 330(e) event after the Court has processed the payment.



1. Click Bankruptcy > Trustee/US Trustee menu:



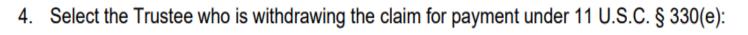


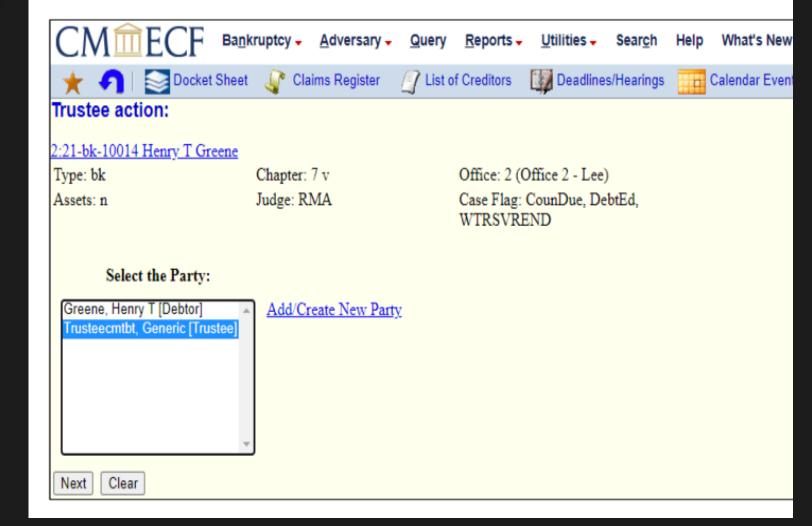
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3. Select the Withdrawal of Trustee Services Rendered Pursuant to 330(e) event; click Next

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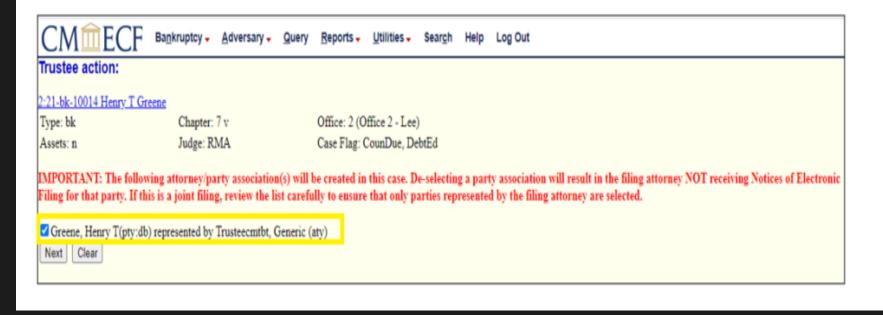








5. Pending court configuration, filers may be prompted with the option to link the attorney/party. Deselect the check box and click Next:





 Select the appropriate event(s) to which your withdrawal event is related. The default will be the previously filed Trustee's Certification of Services Rendered Under U.S.C. Section 330(e) event; click Next.

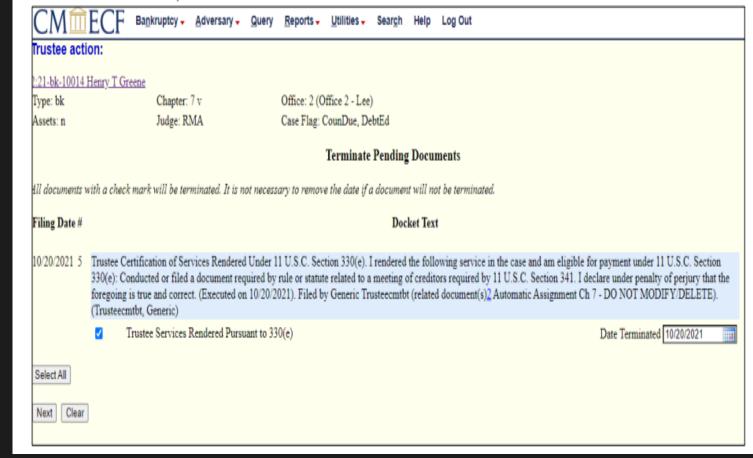
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 The next process will be to terminate the previously filed Trustee's Certification of Services Rendered Under U.S.C. Section 330(e) event; click Next.

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 Terminate the previously filed Trustee's Certification of Services Rendered Under U.S.C. Section 330(e) event by checking the box next to "Trustee Services Rendered Pursuant to 330(e);" do not alter the Date Terminated; click Next.



9. Enter the reason for withdrawal; click Next

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11. Review final docket text; click Next:

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12. Docketing is complete upon receipt of the Notice of Electronic Filing (NEF):

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Trustee action:

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BK TEST U.S. Bankruptcy Court

NextGen 1.6 CM/ECF AO BANKRUPTCY COURT - PVTB

Notice of Electronic Filing

The following transaction was received from Generic Trusteecmtbt entered on 10/20/2021 at 12:45 PM CDT and filed on 10/20/2021 Case Name: Henry T Greene Case Number: 2:21-bk-10014 Document Number: 6

Docket Text:

Withdrawal of Trustee Services Rendered Pursuant to 330(e). Reason for withdrawal: Filed in wrong case. Filed by Generic Trusteecmtbt (related document(s)[5] Trustee Services Rendered Pursuant to 330(e) filed by Trustee Generic Trusteecmtbt). (Trusteecmtbt, Generic)

The following document(s) are associated with this transaction:

Chapter: 7 v Judge: RMA

2:21-bk-10014 Notice will be electronically mailed to:

Generic Trusteecmtbt cmecftester+generictrusteecmtbt@gmail.com



What Happens Next?

- During the week of December 20, 2021, the Clerk of Court will provide each chapter 7 trustee with a report of cases assigned to them as trustee filed between January 12, 2021 and September 30, 2021.
- Trustees may begin filing the new event *Trustee Services* Rendered Pursuant to <u>§ 330(e)</u> in these cases.
- The Court has developed a web page with training resources, including a video <u>at this link</u>.
- The Court has been informed to expect the funds to be available for disbursement in March 2022. We will keep you informed on the anticipated payment period as we are updated by the Administrative Office.

Please contact the Bankruptcy Court if you have any questions about this new annual chapter 7 trustee fee payment process.

rib_helpdesk@rib.uscourts.gov



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