

United States Bankruptcy Court, District of Rhode Island

ON THE DOCKET

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Inner Workings: News and Advice

By Susan M. Thurston, Clerk of Court

Welcome to the first 2016 publication of our court newsletter. We closed out 2015 with the second lowest caseload of the past 20 years, with a total of 2,493 bankruptcy filings. The lowest year since 1995 occurred in 2006 immediately following the 2005 bankruptcy reform act changes. Please see the case filing charts on pages 9 through 10 for a full breakdown of the 2015 caseload by filing chapter.

On November 19, 2015, we held a training on the bankruptcy forms modernization changes that took effect on December 1, 2015. We were very pleased with the turnout for this program and especially in the Bar's use of the new forms since they have gone into effect.

However, one observation we have noticed and which the case trustees have also communicated to us, is that in many instances the new schedules are not being fully completed and various questions are left unanswered. The clerk's office does not check for the completeness of schedules except for certain aspects – signatures, follow up documents, etc., but leaves it to the case trustees to monitor

for accuracy and completeness. As a result, if a debtor fails to adequately fill out their schedules, the case trustee at the § 341 meeting of creditors may require the filing of amended schedules and/or continue the § 341 meeting in order to properly review the case, which will delay the administration of the bankruptcy and likely increase attorney time in representing the client. Thus, it is in both the attorney and the debtor's best interest to ensure that the schedules are fully completed as applicable when initially filed with the court. The materials presented at the November training program have been posted to our [website](#) and we encourage anyone who was unable to attend or needs a refresher to view them.

Our conversion to the new centralized ECF server environment was unfortunately delayed due to the December 1 forms changes, but we finally completed the work and converted to the new centralized server the evening of Friday, February 12, 2016.

Finally, I would like to commend our excellent staff for their hard work

Congratulations Carolyn Sweeney, Sustained Superior Performance Award Recipient

Inner Workings

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and dedication in serving the court last year. At our September 2015 Employee Recognition Ceremony, the following staff was specially recognized in the following categories: Dina Fortes as Best Team Leader; Holly D'Agostino and Christine Lanni for Excellent Customer Service and Carolyn Sweeney as the recipient of the Sustained Superior Performance award. Many other awards were presented in the bronze, silver and gold categories for outstanding project work. Congratulations to all of our talented staff for all that you do!

Tips and Tricks

By Dina Fortes, Case Manager

- If you are having email issues or you think you may have missed a Notice of Electronic filing, you can check the Notices that were sent to you via ECF by running a Summary Report from the Reports tab in ECF. If you need to update or add an email address within your ECF account, go to the "Utilities" page, and under the heading "Your Account" select "Maintain your ECF account", then select the "Email Information" tab, make your changes and select "return to account screen" and then click "submit". If you need any assistance, please contact the court at 401-626-3100 or by email at rib_helpdesk@rib.uscourts.gov. We will be more than happy to assist you.
- New court forms went into effect on 12/1/2015. Be sure to use new forms when filing amended schedules, outdated forms will be stricken.
- For the court to consider IFP's (Application to have the Chapter 7 filing fee waived), be sure to attach schedules I, J (J-2 if applicable), and [Local Form 1006-1.1](#), otherwise the application will be automatically denied.
- When filing a motion, if exhibits are indicated be sure to attach them. If you forget to attach the exhibits to the motion, they can be filed using either the "Addendum" or "Exhibit" event. Be sure to link the addendum or exhibit to the appropriate motion.
- Lastly, the court has been receiving complaints from debtors regarding not being notified by their counsel of rescheduled hearings and/or 341 meetings. Please notify your clients of rescheduled (or vacated) hearings. Also, advise your client that they can be proactive by signing up for the courts email notification system: [DeBN](#) (Debtor's Electronic Bankruptcy Noticing). This will allow the debtor to receive email notification as soon as the change in schedule is made in their case.





Recent Court Opinions

By Louisa Gibbs and Jon Pincince,
Law Clerks

Here is a short digest of some noteworthy opinions of the Court. As always, opinions are available on the Court's website at <http://www.rib.courts.gov/judges-info/opinions>.

***In re Alofsin*, BK No. 10-14654**

(Chapter 7) (Oct. 13, 2015): The Court denied the debtor's motion to reopen his Chapter 7 bankruptcy case to add an unsecured creditor and discharge the debt to that creditor, because after trial the Court found that the debtor failed to exercise reasonable diligence in completing his bankruptcy schedules to include all of his creditors, that the debtor intentionally omitted the debt from his schedules, and that the creditor was harmed by the debtor's omission and would be unfairly prejudiced if the case was reopened and the debt was discharged.

***In re McGuinness*, BK No. 08-10746**

(Chapter 7) (Oct. 22, 2015): The Court denied the debtor's motion to reopen his seven-year-old Chapter 7 case in order to file his missing financial management course certificate to receive the discharge he did not receive while the case was pending. The debtor argued that anxiety and panic disorders prevented him from meeting the deadline for filing the certificate; however, the Court found there was not sufficient cause to reopen the case primarily due to the debtor's failure to provide specific evidence of how his condition prevented him from timely filing the certificate when he managed to complete all other steps of his bankruptcy case with the assistance of experienced counsel and he allegedly suffered those conditions.

***In re DeLotto*, BK No. 15-10648**

(Chapter 7) (Nov. 9, 2015): The Court denied the debtor's motions seeking sanctions against an insurer for

violation of the automatic stay, because the transactions in question constituted recoupment, rather than setoff, and the automatic stay did not bar the insurer from exercising its recoupment rights by reducing the debtor's ongoing post-petition benefits under the disability policy until the overpayment was recouped in full.

***DiOrio v. Davis Griffin (In re Vision Adventures, LLC)*, A.P. No. 15-01006**

(Jan. 25, 2016): The Court granted the defendants' motion to vacate a default entered against them for their failure to answer a complaint alleging that the defendants made fraudulent transfers to themselves from the corporate debtor. The defendants argued they believed they did not have to file an answer due to their Fifth Amendment privilege against self-incrimination, because they were subject to criminal investigation revolving around the same facts alleged in the complaint. The Court found that the defendants' misguided, but good faith, belief that they had invoked the privilege showed cause to vacate the entry of default against them, and the Court noted that little prejudice would result from giving the defendants time to file an answer in which they could properly and specifically invoke the privilege in accordance with the law.



Local Rule Amendments

By Amy Geraghty, Operations Supervisor

Local Rule Amendments	Summary of R.I. Local Bankruptcy Rule Amendments Effective December 1, 2015
Rule 1002-1 Petition – General (amended)	Subdivision (b) - Technical amendment complying with December 1, 2015 Federal Bankruptcy Form amendments.
Rule 1005-1 Filing Papers Requirements (amended)	<p>The 21 day response deadline for Applications for Compensation is now subdivision (d)(2)(F) and all subdivisions thereafter have been re-lettered.</p> <p>Subdivision (d)(2)(G), former subdivision (d)(2)(F) has been retitled, “Motion for Expedited Determination” and striking the reference to filing a separate motion to shorten time as the Court’s new procedure requires one motion.</p> <p>Subdivision (d)(2)(H), former subdivision (d)(2)(G) has been retitled, “Motion for Emergency Determination”.</p> <p>Subdivision (d)(2)(I) Motion for 2004 Examination, was the former subdivision (d)(2)(I).</p> <p>Subdivision (d)(2)(J) former subdivision (d)(2)(I), “Motion to Extend Time”, adds motions to extend time for final cure as those types of motions to extend time which require the response time in 1005-1(d)(1). In addition, the paragraph was rewritten for readability.</p> <p>Subdivisions (d)(2)(K) through subdivision (d)(2)(O) are re-lettered.</p>
Rule 1006-1 Filing Fee (amended)	Subdivision (c) and (e) are technical amendments conforming with the naming convention of the amended Federal Bankruptcy Forms which took effect on December 1, 2015.
Rule 1007-1 Lists, Schedules, Statements; Time limits; Order to File Missing Documents and Notice of Automatic Dismissal for Lack of Non-Compliance; Notice in Chapter 11 (amended)	<p>Except for subdivision (b)(4) which puts into effect new Local Form 1007-1.3 for use when filing a Statement of Exigent Circumstances, all amendments to this rule are technical amendments conforming with the naming convention of the amended Federal Bankruptcy Forms which took effect on December 1, 2015.</p> <p><i>See New Local Form 1007-1.3</i></p>
Rule 1009-1 Amendments of Petitions, Lists, Schedules and Statements (amended)	<p>The first paragraph in subdivision (a) is a technical amendment conforming with the naming convention of the amended Federal Bankruptcy Forms which took effect on December 1, 2015.</p> <p>The second paragraph in subdivision (b) has been amended to include additional ways in which filers may indicate an amendment to a document.</p>

<p>Rule 2090-2 Disciplinary Proceedings (amended)</p>	<p>Subdivisions (c), (d) and (f) have been stricken from the rule and the remaining paragraphs re-lettered.</p>
<p>Rule 4001-4 Automatic Stay of Eviction Proceedings in Which Lessor Has Obtained Judgment or Possession Prior to Date of Filing (Amended)</p>	<p>The rule contains technical amendments which conform to the naming convention of the amended Federal Bankruptcy Forms which took effect on December 1, 2015.</p>
<p>Rule 4004-1 Grant or Denial of Discharge (amended)</p>	<p>The rule contains technical amendments which conform to the naming convention of the amended Federal Bankruptcy Forms which took effect on December 1, 2015.</p>
<p>Rule 4008-1 Reaffirmation (amended)</p>	<p>The rule contains technical amendments which conform to the naming convention of the amended Federal Bankruptcy Forms which took effect on December 1, 2015.</p>
<p>Rule 7016-1 Pre-Trial Procedure; Formulating Issues (amended)</p>	<p>Subdivision (c) was amended to conform to revised Fed. R. Civ. P. 16 which outlines the timeframe in which the scheduling order must issue.</p>
<p>Rule 9010-1 Attorneys Admission to Practice, Representation and Appearances (amended)</p>	<p>The requirements of Local Rule 4002-2 have been incorporated into subdivision (e)(5) “Substitution of Attorney”, of this rule in order to be consistent with the Uniform Numbering System for Local Bankruptcy Court Rules.</p>
<p>Rule 9013-2 Motion Practice (amended)</p>	<p>The title of subdivision (d), has been amended to reflect that only a single motion should be filed when filing a motion for expedited or emergency determination.</p> <p>Paragraph (1), “Expedited Determination” removes the word, “Request”, and instructs the filer on how to name the motion.</p> <p>Paragraph (2), “Emergency Determination” removes the word, “Request”, and instructs the filer on how to name the motion.</p>
<p>Rule 9070-1 Exhibits (amended)</p>	<p>Subdivision (a) instructs parties to file exhibits in both paper and electronically, ONLY when directed by the Court.</p> <p>Subdivision (b) retains some of the old subdivision (a) requirements which outline the numbering system for the exhibits and the criteria for submitting photographs. In addition, the rule now instructs the filers on the type, size and layout of electronic exhibits.</p>
<p>R.I. Bankr. Form 1007-1.3 Statement of Exigent Circumstances (New)</p>	<p><i>New</i> – See Amendment to Local Rule 1007-1 in rules summary chart.</p>

Federal Rules of Civil Procedures Affecting Bankruptcy Filers

By Amy Geraghty, Operations Supervisor



FRCP 4, made applicable in FRBP 7004, reduces the time to serve a defendant from 120 to 90 days.

FRCP 16 made applicable in FRBP 7016, reduces the time the judge must issue a scheduling order from the earlier of, 90 days after any defendant is served (previously 120), or 60 days (previously 90) after any defendant has appeared.

Accordingly, in order for the court to calculate the appropriate deadline, practitioners are advised to assure that the return of service is filed in the adversary proceeding.

Note: The time to file the discovery plan with the Court will therefore automatically adjust based on the above deadline changes (approximately day 53).

Procedures for Filing Expedited and Emergency Motions

Effective December 1, 2015, [Local Rule 9013-2\(d\)](#) was amended to reflect that only a single motion should be filed when filing a motion for expedited or emergency determination.

Expedited Motions

- 1) **Caption of Motion** - If expedited treatment is requested the caption should read, “Motion for Expedited Determination of XXXX”.
- 2) **Response deadline** - The response language in [LBR 1005-1\(d\)\(1\)\(G\)](#) should be used substituting the 14 day objection period for 7 days.
- 3) **Events** –
 - Bankruptcy Events > Motions/Applications> Expedited Determination
 - Adversary Events > Motions/Applications> Expedited Determination

Emergency Motions

- 1) **Caption of Motion** - If emergency treatment is requested the caption should read, “Motion for Emergency Determination of XXXX”.
 - 2) **Response deadline** – The response language in [LBR 1005-1\(d\)](#) should NOT be used as the court will review the motion and determine the appropriate deadline for responses. In lieu of the objection language, the motion should state, “left to discretion of Court”. *See*, [LBR 1005-1\(d\)\(1\)\(H\)](#).
- Events** –
- Bankruptcy Events > Motions/Applications> Emergency Determination
 - Adversary Events > Motions/Applications> Emergency Determination

Health & Wellness

By Jody Venuti, Quality Assurance Specialist

As we sit at our desks day after day, doing routine tasks, we need to remember how important it is to have proper posture and an ergonomically correct atmosphere. Ergonomics is the study of people's efficiency in their working environment. The goal of ergonomics is to reduce stress and eliminate injuries and afflictions associated with the overuse of certain muscles and bad posture. This can be accomplished by creating a workspace that fits you. Posture is a main component in reducing back and neck pain.

You can be proactive with this [visual guide](#) to office ergonomics; compliments of the [MayoClinic.org](#) website. Have a healthy 2016!



Saving Website Passwords

By Stephen Stricklett, Automation Specialist

Most web browsers (Internet Explorer, Firefox, and Google Chrome) have the ability to store the passwords you use when logging on to web sites (webmail, online banking, forums, etc.). Saving your passwords heavily relies on keeping your internet browser up to date. You should also check for updates to your internet browser at least once a month, these updates come out often.

You can enable or disable password saving settings with the following steps:

Internet Explorer:

1. Open your Internet Explorer browser.
2. Select the gear on the right side of the main toolbar and choose Internet Options.
3. Click the Content tab, then select Settings in the AutoComplete section.
4. In the Use AutoComplete for pane, decide whether to leave checked or uncheck:
5. Uncheck the "ask me before saving passwords" box to stop IE from prompting you to save passwords or leave checked if you wish to be prompted for saving passwords.
6. Uncheck the "user names and passwords" on forms to completely prevent IE from saving usernames and passwords or leave enabled.
7. Click OK. Close and restart Internet Explorer for the changes to take effect.

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ON SALE NOW!

2016 Edition of the Rhode Island Bankruptcy Rule Book

The 2016 Edition of the R.I. Bankruptcy Rule book is on sale at the Clerk's Office for \$14.00 per copy. In addition, Local Rule books can be conveniently ordered through our [on-line submission page](#). All e-mail, fax, or phone-in orders require a Federal Express account number to cover shipping costs. Mail in orders should include a self addressed stamped envelope. The book weighs approximately 13.9 ounces. [Click here for further information and for the mail in/fax order form.](#)

Saving Website Passwords

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(You may also want to click “Delete AutoComplete” history if you wish to clear any passwords IE has already saved.)

Firefox:

There is a feature in Firefox (version 43) which secures your saved passwords without requiring you to give up the convenience of those auto-filled login details.

1. Open your Firefox browser
2. In the security tab (Tools>Options>Security) there

is a “use a master password” checkbox. This master password is a SINGLE password that will unlock the rest of your saved passwords. It’s a password you’ll have to enter each time you restart Firefox

3. When setting the master password, Firefox has a password quality meter which displays how difficult your password is to crack. Try different combinations of words, numbers and symbols to get this secure-o-meter as high as possible

4. You will need to pick something that is easy for you to remember because if you forget your master password you will be unable to access any of the information protected by it
5. Once your master password is set, close Firefox.

(When you reopen and go to a webpage where you’ve saved a password (like Webmail) you’ll get a security prompt. This prompt may be a slight inconvenience, but it protects you so no one else is logging onto your sites without your explicit authorization. You will only need to enter it once per session.)

Google Chrome:

By default, Chrome offers to save your password. You can turn this option on or off at any time by doing the following:

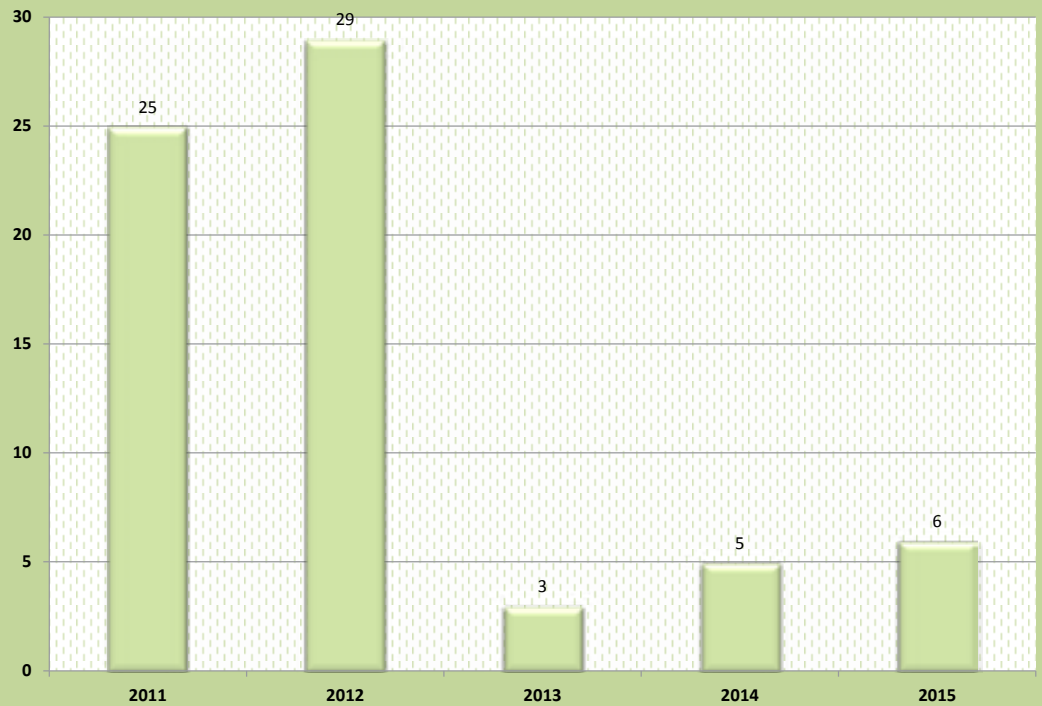
1. In the upper right corner of your window, click the Chrome menu
2. Choose Settings
3. At the bottom of the page, click “show advanced settings”
4. Under “passwords and forms,” uncheck the box that reads, “offer to save your web passwords”, and to turn it back on, simply recheck it.



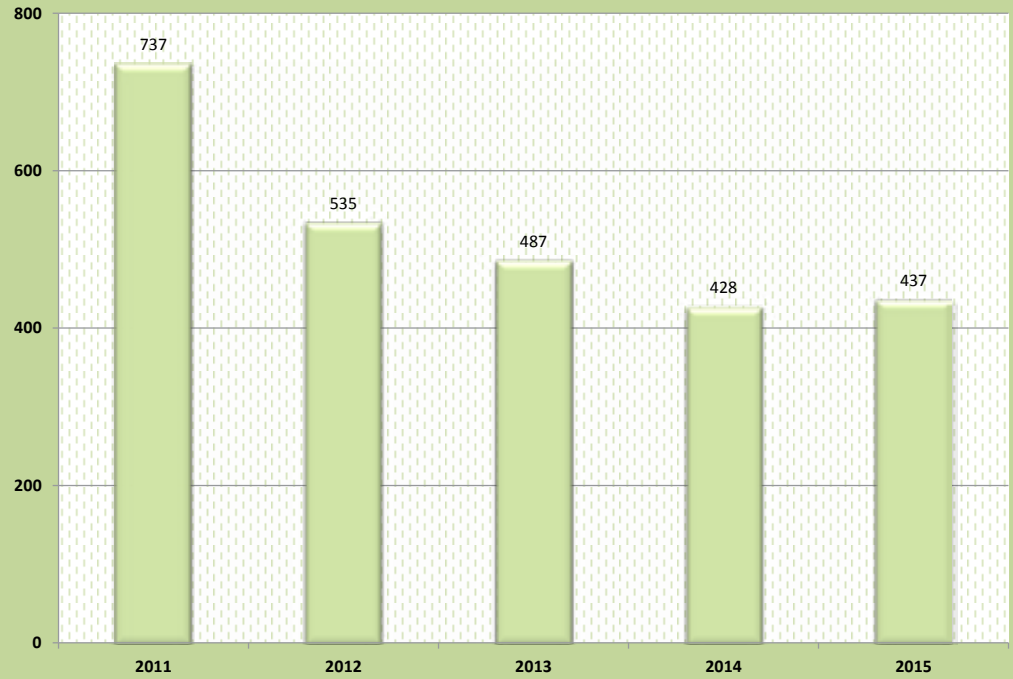
**Ch. 7 Case Filings for 12-Month Periods Ending
December 31, 2015**



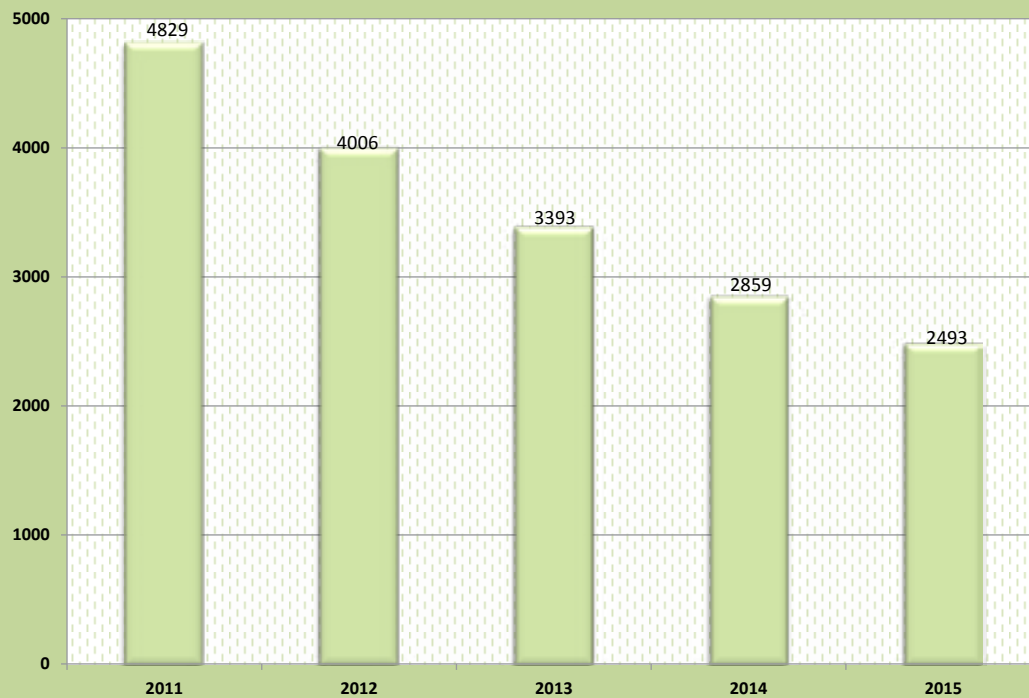
**Ch. 11 Case Filings for 12-Month Periods Ending
December 31, 2015**

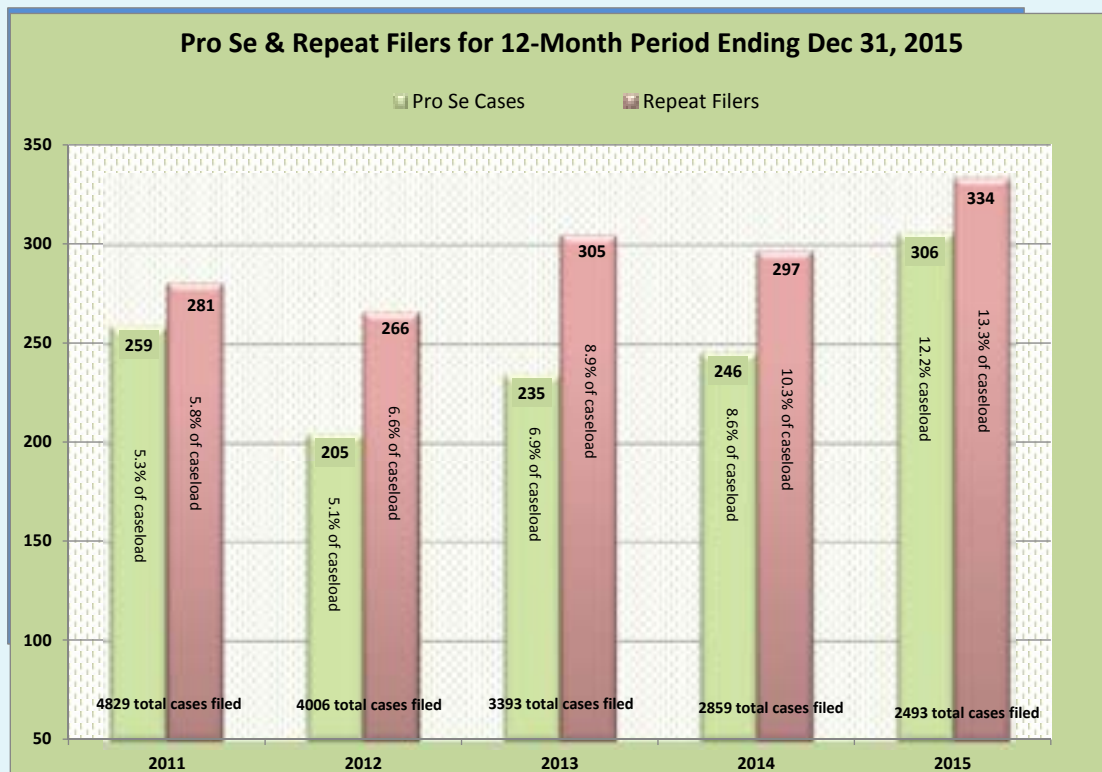


**Ch. 13 Case Filings for 12-Month Periods Ending
December 31, 2015**



**Comparison of Filings for 12-Month Periods Ending
December 31, 2015- All Chapters**





2016 COURT HOLIDAY CLOSING DATES

Memorial Day - Monday, May 30th
 Independence Day - Monday, July 4th
 Labor Day - Monday, September 5th
 Columbus Day - Monday, October 10th
 Veterans Day - Friday, November 11th
 Thanksgiving Day - Thursday, November 24th
 Christmas Day (observed) - Monday, December 26th

CONTACT ON THE DOCKET PUBLICATION STAFF

If you have any comments regarding this issue or want to suggest ideas for future articles, please contact “On the Docket” staff at the following email address:

Janet_Descoteaux@rib.uscourts.gov

Please do not use the above email address to file or send papers to the court, or to ask questions about court procedures or status of a particular case. Contact the clerk’s office at the following number for assistance in these matters.

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

Clerk’s Office: (401) 626-3100

Please Note:
Clerk’s office staff is not permitted to give legal advice.