

# ON THE DOCKET



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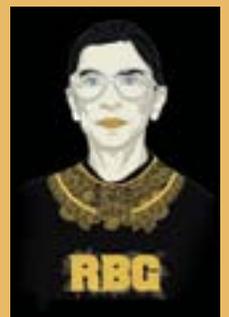
## Inner Workings: News and Advice

*By Susan Thurston, Clerk of Court*

We are excited to once again issue our bi-annual newsletter, On the Docket. Since our last publication, we have continued working toward the completion of the new technologies mentioned in the Spring: implementation of the Microsoft Government Community Cloud, Office 365 and Collaboration features project, collectively called “the Unify Project”, and the conversion to a mobile workforce design. Internal training classes for the Unify Project began in October and will continue through December covering the numerous new applications including Office 365 environment, use of One Drive in the judiciary cloud; One Note, Skype for Business and Office 365 Pro Plus. The last piece of this huge technology project will occur in 2019, when the court converts its Lotus Notes email program to Microsoft Exchange/Outlook. These changes will enable the judiciary to operate on a cloud-based platform, accessible

anytime, anywhere to individual employees and will include new capabilities that will enhance productivity, mobility and keep data secure. As a compliment to this national project, we also are in the final stages of conversion to a fully mobile workforce. During the month of October, we eliminated desktop computers and replaced them with MS Surface Pro tablets and docking stations, enabling our staff the ability to work from any location with ease.

2018 has also been a year of celebrations and service. In January, we welcomed Supreme Court Justice Ruth Bader Ginsburg to the district for a visit with court staff, and in May we were fortunate to view the movie “RBG”, about her fascinating life at the Providence Cable Car shortly before it closed.



*(continued on Page 2)*

## Inner Workings: News and Advice

*(Continued from Page 1)*

In May, we hosted an appreciation ceremony for our bankruptcy attorneys who volunteer their time and expertise to our Bankruptcy Legal Clinic, which serves our large pro se filer population. This program has been a tremendous success due to the dedicated attorneys we partner with.

Next, in late June, the three federal judiciary units in Rhode Island – the U.S. District Court, U.S. Bankruptcy Court and Probation and Pretrial Office, jointly participated in a Day of Service training at the [Dare to Dream](#) ranch in Foster, Rhode Island.



**Thank you Volunteer Attorneys!**



Dare to Dream Ranch is a holistic and alternative military retreat for service members, veterans and their families. Court staff worked in teams on two separate days helping to clear land and debris to make way for future therapy programming for our veterans. Both days were extremely hot and exhausting, yet incredibly rewarding in knowing we were helping create opportunities to serve our veterans' health and wellness needs, in appreciation for their enormous sacrifices to our country.



Finally, in September, the Bankruptcy Court celebrated its annual Employee Recognition Ceremony to recognize and reward the outstanding achievements of our small, yet mighty staff. Please see full article on page 3 infra.

# 24<sup>th</sup> Annual Employee Recognition Ceremony

by Kristen Batty, Chief Deputy Clerk

September 20, 2018 marked the day the Bankruptcy Court held its 24th Annual Employee Recognition Ceremony. All court employees were honored with a celebration luncheon as well as individual staff recognition for their many, many accomplishments throughout the year. A sampling of some of these awards include:

- Craig Balme, Information Systems Manager -- for his time and effort mastering a new software product, Adobe LiveCycle, to create a streamlined Chapter 13 plan form for the Bar that expands and collapses the various form sections to save time and money in the creation and service of the plan on creditors.
- Two Customer Service Awards presented to:
  1. Christine Lanni, Case Manager, for her excellent service to the Bankruptcy Bar. Attorneys reported that "I have had the pleasure working with the staff for over 10 years. Christine is by far one of my favorite members of your team." Another wrote: "[s]he is very polite and knowledgeable, and always replies quickly to questions", and
  2. Pamela Ricciarelli, Case Manager, received the internal Customer Service award from the staff. Comments from her peers: "Pam always answers my questions, communicates courteously with attorneys and debtors and goes out of her way to research an issue if the answer is not immediately apparent."
- Behind the scenes at the Bankruptcy Court, other national judiciary initiatives were implemented in 2018. One such project was the conversion of our financial management system from a program called FAST to JIFMS (Judiciary Integrated Financial Management System). Financial Administrator April Elderkin was recognized for her leadership in overseeing this critical conversion which included comparing and matching data from the old system to the new system and recommending new processes to ensure our court meets all judiciary audit rules and requirements. The transition was time

consuming and complicated, but April handled it brilliantly.

- Our highest honor award is called Sustained Superior Performance and this year's recipient was our Public Information Clerk, Janet Descoteaux. During her nine years with the Court, Janet has primarily served the



case intake section of operations, but due to her numerous hidden talents (such as her expertise with all Microsoft Office products and her amazing creativity), she has been tapped for so many other court roles

including editor of this newsletter, reporter of loss mitigation statistics, coordinator of the Bankruptcy Legal Clinic, training coordinator, continuity of operations administrator, as well as serving as an application administrator for many different software programs including SharePoint, Flare, InDesign, SignUp Genius, Appointy and others. Janet brings so many incredible skills and talents to the court, and we are very fortunate to have her.

As you can tell from these accolades, the Rhode Island Bankruptcy Court is incredibly blessed with talented, dedicated staff and we appreciate all of them for the varied strengths they bring to work each and every day. Please join us in congratulating our entire staff for another excellent year of service and devotion to the business of the court.



# Tips and Tricks for Improved Electronic Filing and Practice before the Rhode Island Bankruptcy Court

*by Jen Davis and Pam Ricciarelli, Case Managers*

Dear Bankruptcy Attorney:

We have noticed many practitioners make similar mistakes in the filing of documents with our court. To help you avoid a corrective action entry, we have put together the Top 3 Errors and some Helpful Tips for your edification:

## **Error Number 1 – Remember to Date All Signatures!**

Debtor(s) signature must be dated on all Affidavits of Non-Existence re: payment advices even if they include a notary public.

## **Error Number 2 – Select Appropriate Prompt in Motion to Extend Time Event!**

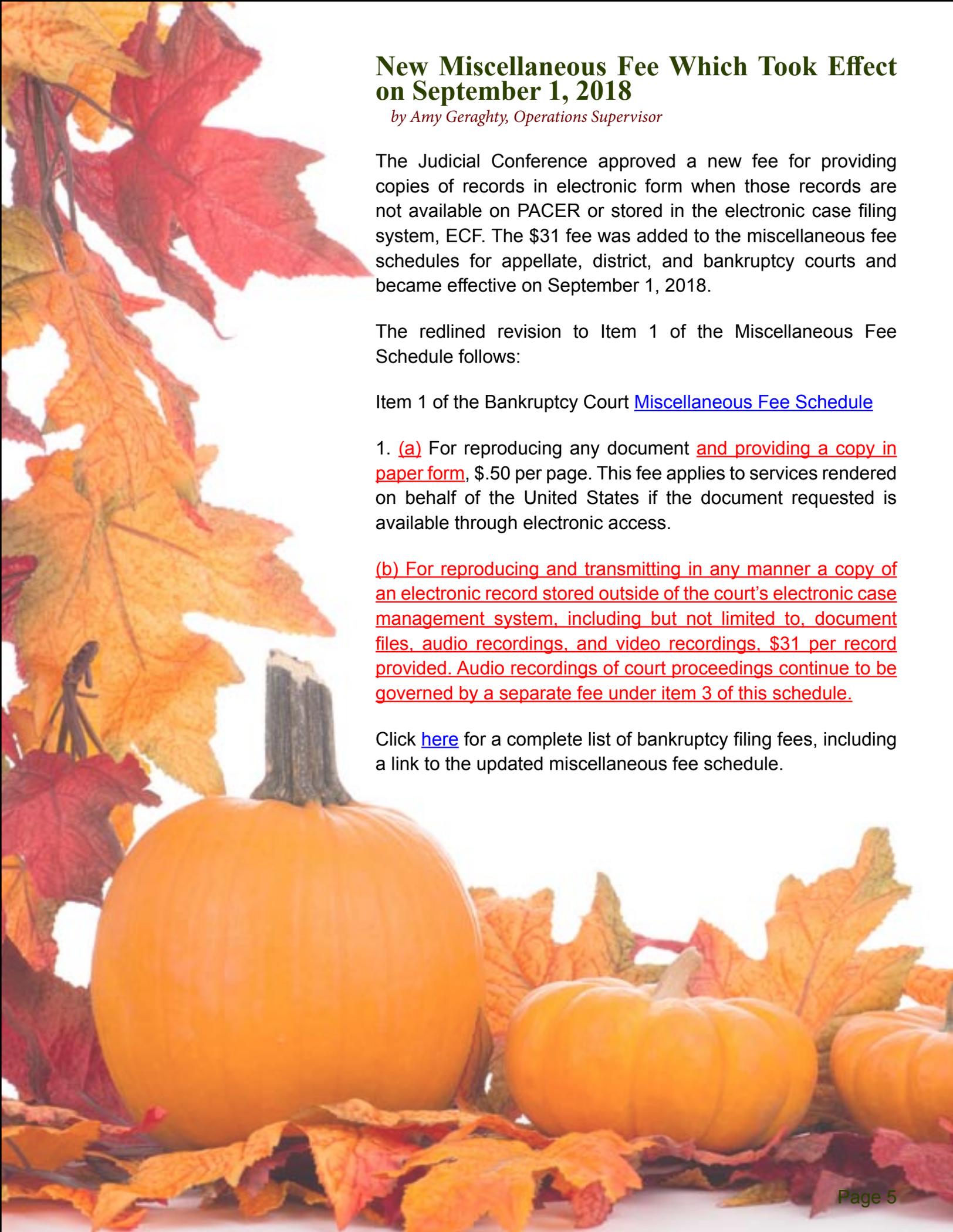
Because different deadlines apply for different types of motions to extend time, the event includes prompts that must be selected in order to calculate the applicable deadline for the type of motion being filed. Please use care in selecting the appropriate prompt in accordance with [LBR 1005-1\(d\)](#).

## **Error Number 3 – Adding Creditors in a Reopened Case**

If you are adding creditors in a reopened case, you must file your request in motion format and select the correct event, Motion to Amend Creditors (fee), not the Motion to Amend Schedules event.

## **Other Helpful Tips:**

1. Remember to use the most updated LBR 1005-1(d) language on all moving papers (last revised 12/1/2016);
2. Remember when filing Amended Schedules D, E or F that you must also include [Local Form 1009-1.1](#): Notice to Added Creditors of Pending Bankruptcy and Applicable Case Deadline and Certificate of Service;
3. When filing a Motion to Extend Time to file Missing Documents, remember to link to the underlying/ original Order Regarding Missing Documents and not to any previous order granting extension of time;
4. When filing a Joint Loss Mitigation Status Report, make sure to select both party filers (ex. the debtor and the creditor);
5. When filing an Application to Waive the Filing Fee, you must include Schedules I and J and [Local Form 1006-1.1](#) (Supplemental Income and Expense Information).

The background of the page features a collage of autumn-themed elements. On the left side, there are several large, vibrant leaves in shades of red, orange, and yellow. At the bottom of the page, there are three pumpkins of varying sizes, also in warm autumn tones, surrounded by more fallen leaves. The overall aesthetic is seasonal and warm.

## New Miscellaneous Fee Which Took Effect on September 1, 2018

*by Amy Geraghty, Operations Supervisor*

The Judicial Conference approved a new fee for providing copies of records in electronic form when those records are not available on PACER or stored in the electronic case filing system, ECF. The \$31 fee was added to the miscellaneous fee schedules for appellate, district, and bankruptcy courts and became effective on September 1, 2018.

The redlined revision to Item 1 of the Miscellaneous Fee Schedule follows:

Item 1 of the Bankruptcy Court [Miscellaneous Fee Schedule](#)

1. (a) For reproducing any document and providing a copy in paper form, \$.50 per page. This fee applies to services rendered on behalf of the United States if the document requested is available through electronic access.

(b) For reproducing and transmitting in any manner a copy of an electronic record stored outside of the court's electronic case management system, including but not limited to, document files, audio recordings, and video recordings, \$31 per record provided. Audio recordings of court proceedings continue to be governed by a separate fee under item 3 of this schedule.

Click [here](#) for a complete list of bankruptcy filing fees, including a link to the updated miscellaneous fee schedule.

# Upcoming Electronic Case Filing (ECF) Event Changes to Implement the December 1, 2018 Federal Bankruptcy Rule Amendments

by Holly D'Agostino, Courtroom Deputy

For the first time in many years, there are only a couple bankruptcy rule changes taking effect this December. In our [May 2018 On the Docket publication](#), we included a chart of these upcoming December 1 Federal Rule changes. To implement these changes, we are creating several new events in our ECF system, which will be in place for the December 1 effective date. See upcoming changes below:

## 1. New Party Event “Motion to Determine Validity of Payment Change”

[FRBP 3002.1\(b\)](#) sets forth the procedure for filing and serving a notice of payment change by the holder of a claim secured by a Chapter 13 debtor’s principal residence. The addition of subdivision (b)(2) now specifically allows for a party in interest to object to a proposed payment change by filing a motion to determine the validity of the payment change. If no motion is filed by the day before the new amount is due, the change will take effect.

The event for filing the **Motion to Determine Validity of Payment Change** can be found under, Bankruptcy>Motions>Determine Validity of Payment:

Available Events (click to select an event)	Selected Event
Convert Case to Chapter 12 - Bk Motion	Determine Validity of Payment
Damages for Creditor Misconduct	
Deconsolidate Case Association	
Delay Discharge - Bk Motion	
Deposit Funds into Court Registry	
Deposit Unclaimed Funds - Bk Motion	
Determine	
Determine Final Cure and Payment re Rule 3002.1	
Determine Lien Satisfied	
Determine Mortgage Fees and Expenses	
Determine Tax Liability - Bk Motion	
<b>Determine Validity of Payment</b>	
Disgorge Fees	
Dismiss Case	
Dismiss Document	
Dismiss Party	

Next Clear

You must answer the following question:

Type: bk Chapter: 13 v Office: 1 (Provider)  
Assets: y Case Flag: INTP, HldEnDis, APPEAL, DirApl, DebtEd

**Is This Payment Change in Regard to a Home Equity Line of Credit?**

Yes  
 No

Next Clear

Final Docket text will appear as follows:

45	Motion to Determine Validity of Payment Change Re: Home Equity Line of Credit Filed by Rufus T. Firefly. Objections to Motion Due: 11/19/2018, plus an additional 3 days if served by mail or otherwise allowed under FRBP 9006(f). If this is an Emergency Motion, the objection deadline will not apply and a new deadline will be set by the court. See Local Bankruptcy Rule 9013-2(d)(2)(C). (Geraghty, Amy) (Entered: 11/05/2018)
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**2. Creditor Form – Use Existing [Official Form B 410S-1, Notice of Mortgage Payment Change, to Indicate a Change to a HELOC Loan Payment](#)**

Part 3 of Official Form 410S1, Notice of Mortgage Payment Change, should be used to provide notice of payment changes for HELOCs.

**Part 3: Other Payment Change**

3. Will there be a change in the debtor's mortgage payment for a reason not listed above?

No

Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (Court approval may be required before the payment change can take effect.)

Reason for change: \_\_\_\_\_

Current mortgage payment: \$ \_\_\_\_\_ New mortgage payment: \$ \_\_\_\_\_

**3. New Party Event “Supplemental Statement Regarding Certification of Direct Appeal”**

[FRBP 8006\(e\)](#) allows the Court, on its own motion, to certify a judgment, order or decree for direct review in a court of appeals. Subdivision (e)(2) provides an opportunity for a party in interest to file within 14 days, a Statement on the merits of the Court's certification.

Two new events have been created for parties to electronically file a Statement regarding the merits of the Court's certification, depending on whether the appeal is in a Bankruptcy or Adversary case. These events will be found under:

**Bankruptcy** > Appeal > Supplemental Statement re: Certification of Direct Appeal; and **Adversary** > Appeal > Supplemental Statement re: Certification of Direct Appeal.

Available Events (click to select an event)

- Appellant Designation
- Appellee Designation
- Certification of Direct Appeal to Court of Appeals
- Certification of No Transcript Ordered
- Circuit Court Notice re Direct Appeal
- Cross Appeal (fee)
- Joint Certification to Court of Appeals
- Notice of Appeal and Statement of Election
- Petition Requesting Direct Appeal
- Request to Transmit Documents Pursuant to FRBP 8010(c)(ECF Appendix Required to Be Attached)
- Response to Statement of Evidence in Lieu of Transcript
- Statement of Evidence in Lieu of Transcript
- Statement of Issues on Appeal
- Supplemental Statement Re: Certificate of Direct Appeal**
- Transcript Ordered

Selected Event

Supplemental Statement Re: Certificate of Direct Appeal

Next Clear

Final text appears as follows:

## File an Appeal:

1:18-bk-10001 Miriam N.R. Balme

Supplemental Statement Filed by Bruce F. Smith on behalf of Rufus T. Firefly (related document(s) [42] Certification of Direct Appeal filed by Debtor N.R. Balme).

Next

Clear

4. **New Court Event “Statement/Supplement Regarding Certification of Direct Appeal”** [FRBP 8006](#) is being amended by the addition of subdivision (c)(2) which will provide authority for the Bankruptcy Court to file a Statement on the merits when parties in interest have filed a certification for direct review by a court of appeals.

A new Court event, ***Court’s Statement/Supplement re: Certification of Direct Appeal***, will be used for the Court to issue a Statement regarding the merits of the parties’ certification.

Final text will look as follows:

Court’s Statement/Supplement (RE: related document(s) [42] Certification of Direct Appeal).

Next

Clear

The Court’s [Electronic Filer User Manual](#) will be updated to include these new events and instructions to meet the December 1, 2018 effective date.

# Chart of December 1, 2018 Upcoming Federal Bankruptcy Rule Amendments

By Holly D'Agostino, Courtroom Deputy

The below individual rule links will be updated with the changed language on 12/1/18; before then, please use the link above to view these pending rule changes.

<p><a href="#">Rule 3002.1</a> – Notice of Payment Change</p>	<p>Subdivision (b)(1) change: The rule requires 21 days' advance notice of any payment change, however, in cases of home equity lines of credit (HELOC), the courts may specify alternative notice requirements either by local rule or orders in individual cases.</p> <p>Subdivision (b)(2) change: The rule now acknowledges the right of a party in interest to object to a home mortgage payment change by filing a motion to determine validity of payment change (“the motion”). There is no deadline for filing the motion but if it is filed later than the effective date, the change will go into effect. If a motion is filed after the effective date and it is determined that the change was not required, appropriate adjustments will have to be made to reflect any overpayment. If the motion is filed before the effective date and leads to a suspension of the payment change, and it is later determined that the payment change was valid, the debtor will be required to cure the resulting default.</p>
<p><a href="#">Rule 5005</a> – Filing and Transmittal of Papers</p>	<p>The rule makes electronic filing mandatory in all districts for entities represented by an attorney, unless the court allows non-electronic filing for good cause or by local rule. The rule also establishes what constitutes an electronic signature as “[a] filing made through a person’s electronic-filing account, together with the person’s name on the signature block”.</p> <p>The rule allows permits an unrepresented individual to file electronically if allowed by the local court.</p>

<p><a href="#">Rule 7004</a> – Process; Service of Summons, Complaint</p>	<p>The rule modifies and renumbers to update the cross reference to Civil Rule 4.</p>
<p><a href="#">Rule 7062</a> – Stay of Proceedings to Enforce a Judgment</p>	<p>The rule incorporates all of Fed R. Civ. P. 62, except for retaining in bankruptcy the 14 day stay to enforce a judgment (the civil rule is being amended to provide a 30 day stay to enforce a judgment).</p>
<p><a href="#">Rule 8002</a> – Time for Filing Notice of Appeal</p>	<p>If Fed.R.Civ.P 58(a) requires a judgment to be set out in a separate document, the time for filing the notice of appeal runs from the earlier of when the judgment is docketed, or if no separate document is prepared, 150 days from when the judgment, order or decree is entered on the docket under Rule 5003(a).</p> <p>Subdivision (c) modifies the requirements in the inmate filing rule of what would constitute “timeliness” with respect to the filing of an appeal.</p>
<p><a href="#">Rule 8006</a> – Certifying a Direct Appeal to the Court of Appeals</p>	<p>This rule provides authority for the bankruptcy court, within 14 days after the parties’ certification, to file a supplemental statement about the merits of the certification.</p>
<p><a href="#">Rule 8007</a> – Stay Pending Appeal; Bonds; Suspension of Proceedings</p>	<p>This rule is being amended to conform with the changes to Fed.R.Civ.P. 62, which formerly required a party to provide a “supersedeas bond” to obtain a stay or to enforce a judgment pending an appeal. As amended, the rule allows a party to obtain a stay by providing a “bond or other security.”</p>
<p><a href="#">Rule 8010</a> – Completing and Transmitting the Record</p>	<p>Same change as Rule 8007 of removing term “supersedeas” and replacing with “bond or other security.” to obtain a stay or to enforce a judgment pending appeal.</p>

<p><a href="#">Rule 8011</a> – Filing and Service; Signature</p>	<p>With respect to bankruptcy appeals pending in the BAP or district court, the rule generally makes electronic filing mandatory, establishes what constitutes an electronic signature, authorizes service via electronic filing on all registered users, eliminates the requirement of proof of service when service is made via the court’s electronic filing system and clarifies the operation of the inmate filing rule.</p>
<p><a href="#">Rule 8013</a> – Motions; Intervention</p>	<p>With respect to bankruptcy appeals pending in the BAP or district court, page limits are replaced with word limits for motions and responses produced using a computer. Page limits are retained for papers prepared without the aid of a computer.</p>
<p><a href="#">Rule 8015</a> – Form and Length of Briefs; Form of Appendices and Other Papers</p>	<p>This rule reduces the word limits generally allowed for briefs but makes clear the court’s authority to extend all length limits in Part VIII of the Bankruptcy Rules. The list of items excluded from length computations in form subdivision (a)(7)(B)(iii) is deleted and replaced with new subdivision (g).</p>
<p><a href="#">Rule 8016</a> – Cross Appeals</p>	<p>This amendment reduces the word limits generally allowed for briefs.</p>
<p><a href="#">Rule 8017</a> – Brief of an Amicus Curiae</p>	<p>A new subdivision (b) is added to address the permissibility of filing an amicus brief during the court’s consideration of whether to grant rehearing. It also authorizes the district court or BAP to prohibit the filing of, or strike an amicus brief, if it would result in a judge’s disqualification.</p>
<p><a href="#">Rule 8018.1</a> – District Court Review of a Judgment that the Bankruptcy Court Lacked the Constitutional Authority to Enter</p>	<p>This rule is new. If on appeal, the district court determines that the bankruptcy court did not have constitutional authority to enter the order from which the appeal was taken, the district court may treat the bankruptcy court order as proposed findings of fact and conclusions of law.</p>





**\*\*ATTENTION TRUSTEES, ATTORNEYS, CREDITORS  
AND OTHER INTERESTED PARTIES \*\***

Do you want your court notices delivered *faster* and more conveniently, the *same day* they are produced by the court?

Sign up for [Electronic Bankruptcy Noticing \(EBN\)](#)  
and Go Paperless!  
It's free, it's fast and it's easy!

**EBN** is a reliable, faster and more efficient service that allows court notices to be transmitted electronically via email.

**Benefits:**

- Court notices are sent the same day they are produced by the court
- You can access your court notices 24/7
- Court notices that would be normally be mailed to multiple locations can be routed to a centralized electronic address
- You'll never lose a paper copy by storing court notices to your computer
- Court notices can be easily forwarded
- No scanning into your system or shredding when you are finished with them
- Toll-free telephone support available for questions

**What's Required:**

1. The latest version of Adobe Acrobat Reader software. If you don't have it, you can download it free of charge!
2. Complete the online registration form at [bankruptcynotices.uscourts.gov](http://bankruptcynotices.uscourts.gov), then sign and mail the Agreement to the BNC to begin. Email link service will begin approximately two weeks after you complete and return the Noticing Agreement.

**Did you know?**

There are *over 204,000* notices that are produced annually in our District by the Bankruptcy Noticing Center and less than **41%** of them are transmitted electronically.

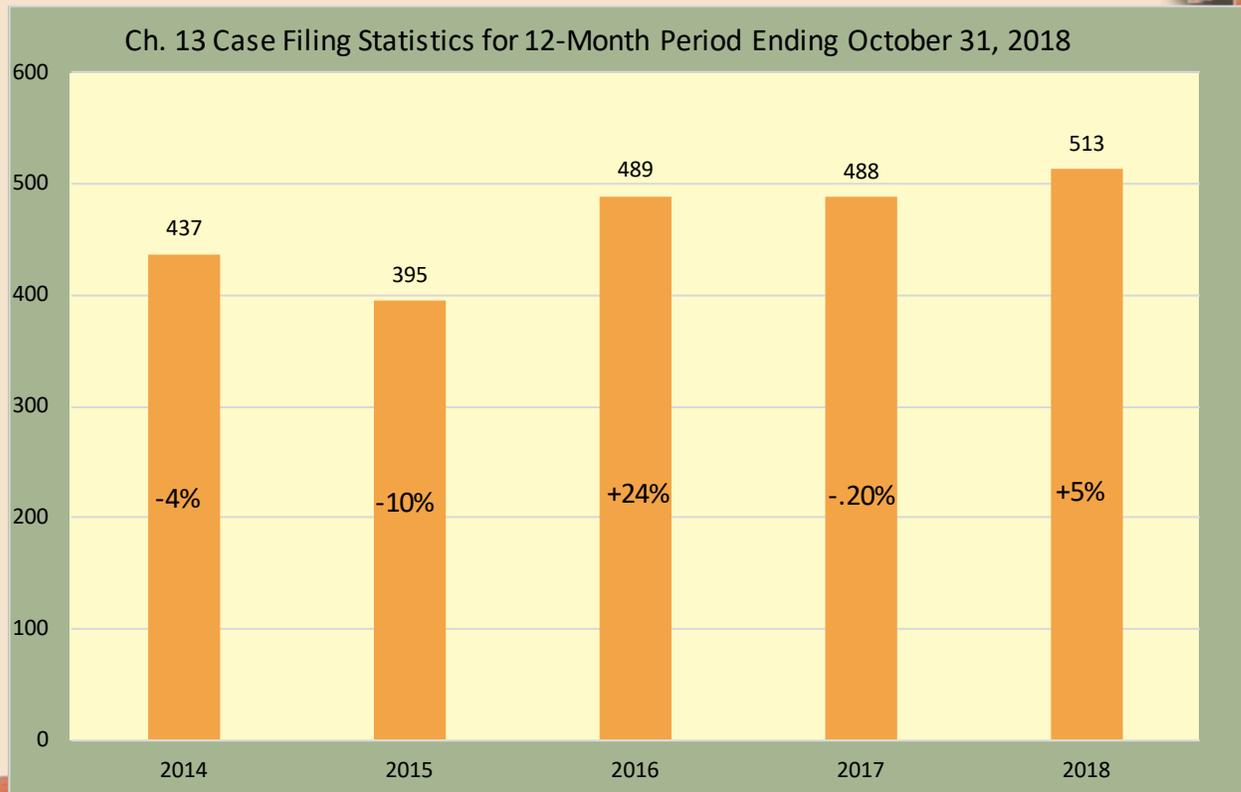
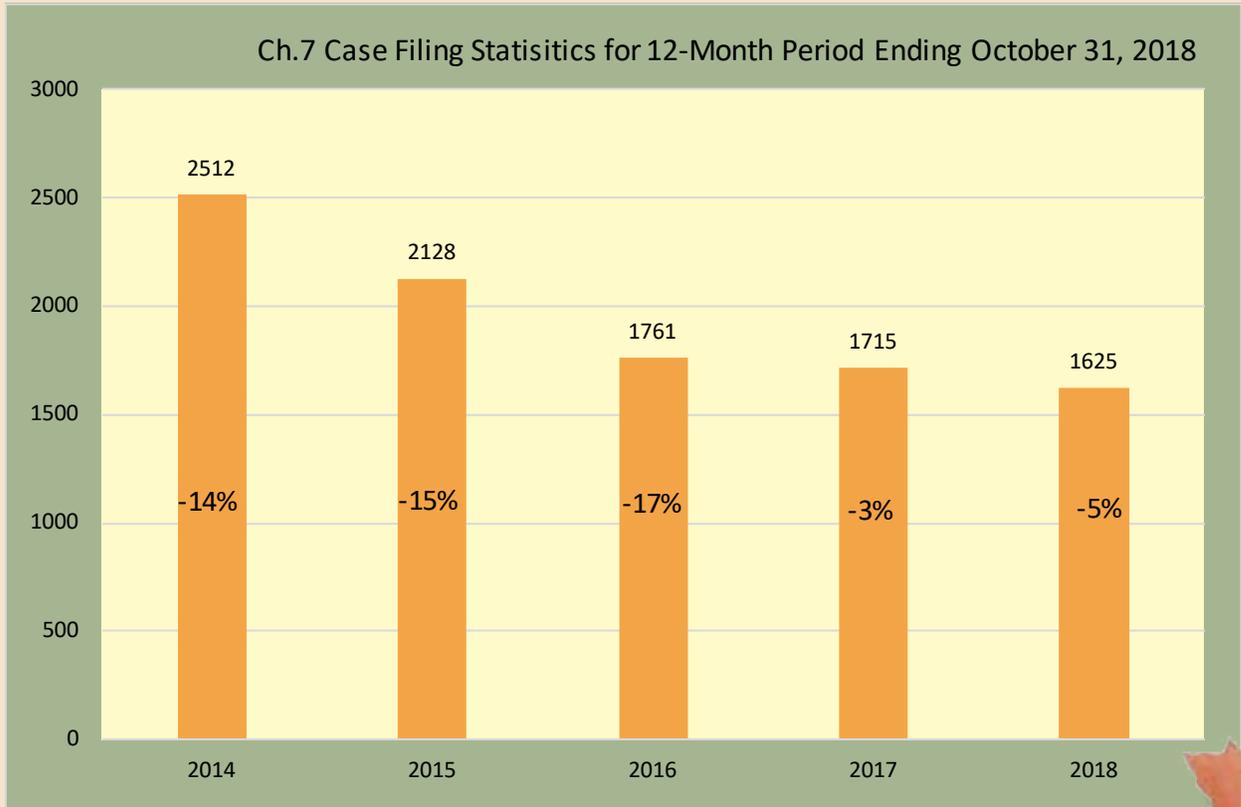
Help us save paper and postage costs! Sign up today!



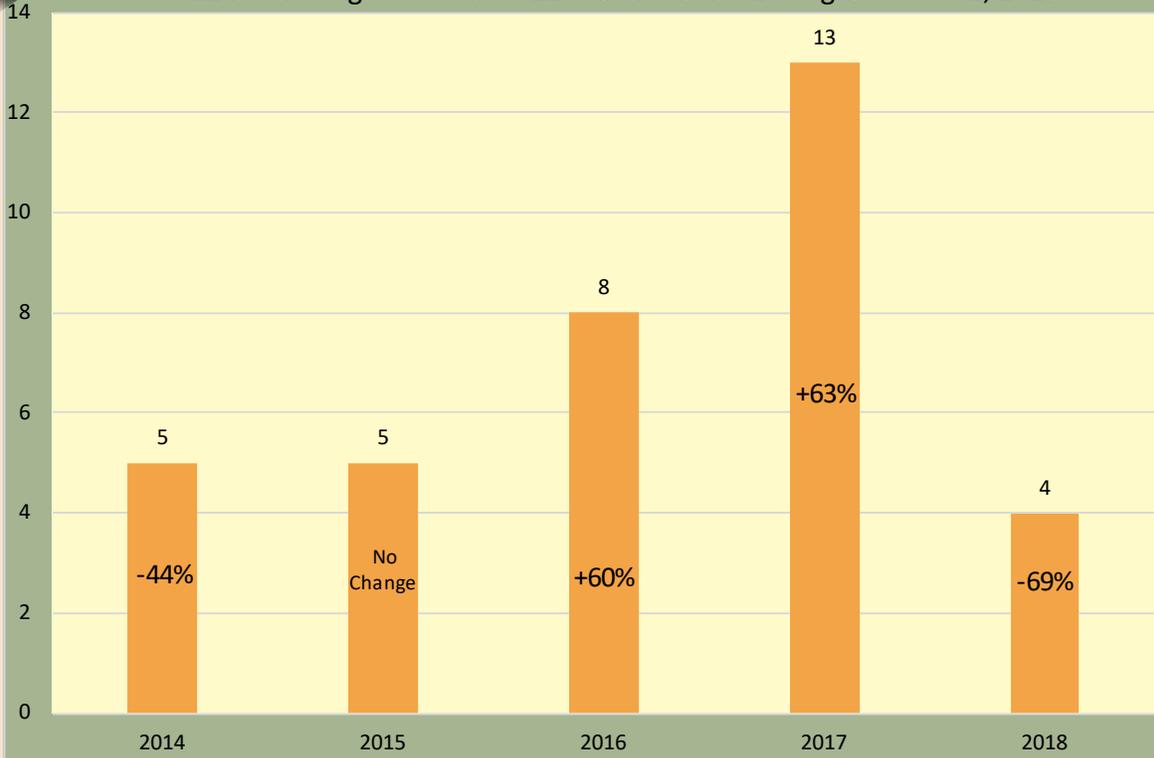


# Case Filing Statistics for Period Ending October 31, 2018

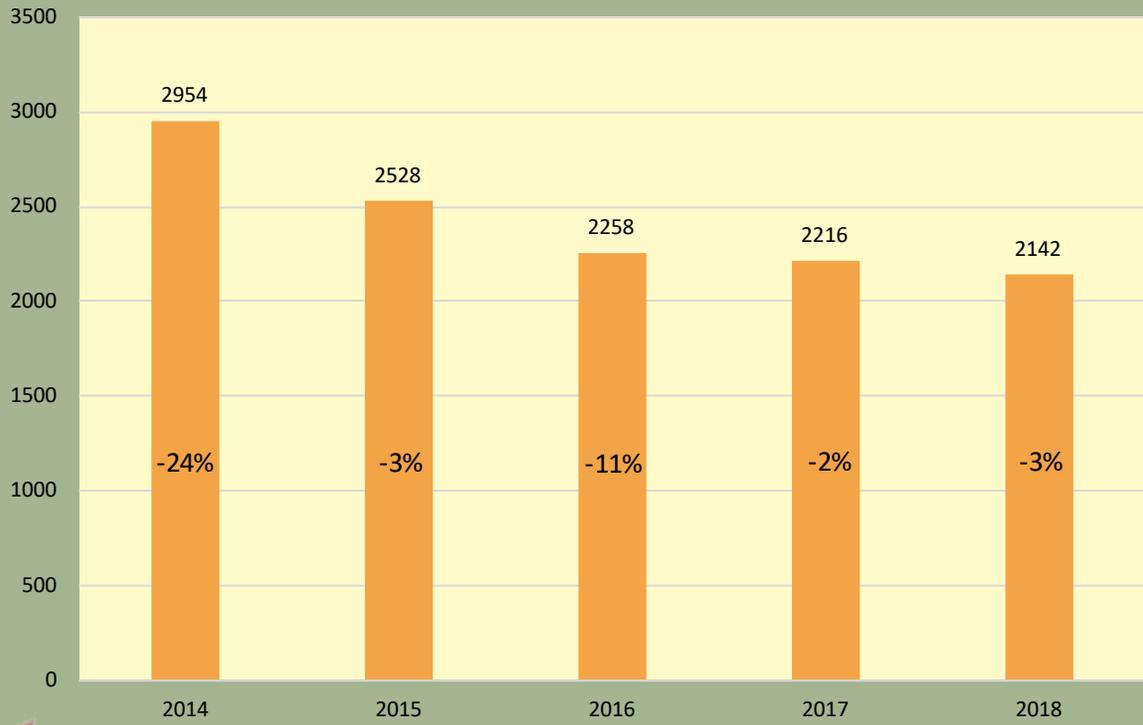
by Dina Fortes, CM/ECF Analyst



Ch. 11 Case Filing Statistics for 12-Month Period Ending October 31, 2018



Total Case Filing Statistics for 12-Month Period Ending October 31, 2018



## **UPCOMING COURT HOLIDAY CLOSING DATES**

Thanksgiving Day - Thursday, November 22nd  
Christmas Day - Tuesday, December 25th  
New Year's Day - Tuesday, January 1st  
Birthday of Martin Luther King, Jr.- Monday, January 21st  
President's Day - Monday, February 18th

## **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](mailto: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.

Clerk's Office: (401) 626-3100

Visit the court website [www.rib.uscourts.gov](http://www.rib.uscourts.gov)  
for local filing information.  
Thank you.

***Please Note:***  
***Clerk's Office staff is not permitted to give legal advice.***