



CHIEF JUDGE'S CORNER BIG NEWS, OPPORTUNITIES AND RESPONSIBILITIES

By: Hon. Laurel M. Isicoff

By now everyone has heard that Chief Judge Emeritus A. Jay Cristol will be retiring on January 13, 2023. You will read more about Judge Cristol in a special tribute edition that we will be publishing later this year. For now, let me just note that Judge Cristol has been my mentor for almost forty years. His service to this country goes far beyond the almost 38 years he has served as a bankruptcy judge. In addition to his incredible talents as a magician and poet, Judge Cristol is also a published scholar. And most importantly, Judge Cristol has served the South Florida legal community, both as an attorney and as a judge, with the greatest integrity, professionalism, and legal acumen. His life-long commitment to pro bono is reflected in his endowment of the Eleanor R. Cristol and Judge A. Jay Cristol Bankruptcy Pro Bono Assistance Clinic at the University of Miami School of Law. We will have a special event honoring Judge Cristol in the Fall of 2022, probably in early or mid-November. Please keep your eyes open for an announcement.

I am blessed to have been appointed as a bankruptcy judge. As I have told many people, I always believed that becoming a judge was achieving true success in my chosen field – the law. Obviously, this position carries with it a great deal of responsibility. But it also has given me tremendous opportunities – including promotion of causes that are important to me.

While I have had the benefit of this office, I have tried to promote three causes that are of great importance to me – pro bono service, financial literacy, and diversity in the practice. I thank all of you who have joined me in these efforts over the years, even before I became a bankruptcy judge. Now the percentage of pro se filings in the Southern District are down – I believe that one reason is that we have so many volunteers willing to accept pro bono cases and work at our pro se help desk. Also, this year the Florida legislature finally passed a law making financial literacy a mandatory requirement to graduate high school. A strong economy is based on a firm understanding of finances, debt, and capital.

Finally, we turn to diversity. The bankruptcy bench is the least diverse of the federal benches. We have made strides over the years, but we have a long way to go. The federal judiciary has adopted as one of its seven primary goals in its latest strategic plan an increase in diversity – “a workforce of judges and employees that reflects the diversity of the public it serves.”

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Bankruptcy Cases Filed From 01/01/2022 to 5/31/22

TOTAL FILED:	4,342
• Chapter 7	2,153
• Chapter 9	0
• Chapter 11	80
• Chapter 12	1
• Chapter 13	2,102
• Chapter 15	6

Additional filing statistics are available on the court website www.flsb.uscourts.gov under the "Court Information" tab at the top of page.

Select: "[Case Filing Statistics](#)"

**CHIEF JUDGE'S CORNER** (continued from page one)

In October 2019 many of you attended the Roadways to the Bench – Who Me? A Bankruptcy Judge? panel and judicial roundtable. Miami was one of nineteen cities who participated in that event. Ten of our most recently appointed bankruptcy judges attended. The program was so successful that the federal judiciary will be presenting a second Roadways to the Bench. This time the event will focus on bankruptcy judgeships and magistrate judgeships. The event will take place in 38 cities around the country, including Miami, on Monday, April 3, 2023. I have the honor of serving as National Co-Chair of this event, along with Magistrate Judge Omar Aboulhosn, who sits in West Virginia.

Keep your eyes open for announcements as we get closer to the event. In the meantime, please make a point of mentoring diverse law students and lawyers. There have been significant improvements in the bankruptcy practice since I became a judge, but we are nowhere near a bar or a bench that is reflective of our South Florida community.

As I concluded in my last “Chief Judge’s Corner” – “[w]e have an obligation to our clients, the courts, but most importantly, we have an obligation to each other.” One of your responsibilities, as a Florida licensed attorney, is to have an “inventory attorney.” Rule 1-3.8(e) of the Florida Rules Regulation the Profession, effective January 1, 2006, requires every practicing attorney, even one with only one client, to designate an inventory attorney. As described by the Florida Bar News article that announced the rule adoption – “Inventory attorneys take possession of the files of a member who dies, disappears, is disbarred or suspended, becomes delinquent, or suffers involuntary leave of absence due to military service, and no other responsible party capable of conducting the member’s affairs is known. The inventory attorney has the responsibility of notifying all clients that their lawyer is no longer able to represent them. The inventory attorney also may give the file to a client for finding substitute counsel; may make referrals to substitute counsel with the agreement of the client; or may accept representation of the client, but is not required to do so.” Inventory attorneys are entitled to reimbursement of actual costs, and now, with a change in the procedures, some compensation. You can designate your inventory attorney by going on the Florida Bar website, going to your “Member Profile” and then find the link to designate the inventory attorney. Conveniently, since it is dues renewal time, you can take the extra minute and make that designation.

As professionals we have opportunities but also responsibilities. Please fulfill your responsibility to your clients by designating your inventory attorney if you have not done so already. Please fulfill your responsibility to the practice of law by contributing to improve the diversity of the bankruptcy community. And most of all, fulfill your responsibility to yourself by taking care of your physical and mental health.

Have a wonderful summer.

RECENT USBC SDFL ADMINISTRATIVE ORDERS

Link to Current Administrative Orders: <https://www.flsb.uscourts.gov/general-orders> Link to Clerk’s Notices: From home page of the Court’s website <https://www.flsb.uscourts.gov/> select “News and Announcements” in the lower left column on the page

- AO 2022-04** Amendment of Local Rule 1073-1 to Reflect Change in the Divisional and Judicial Assignment Process for Petitions Filed Under Chapter 15 for Recognition of a Foreign Proceeding
- AO 2022-03** Amendment of Local Rule 5005-1 to Reflect Requirement for Submission of Electronically Filed Documents in Text-Searchable PDF Format
- AO 2022-02** Amendments of Local Rules 7004-2, 7016-1, 7026-1(A), 7026-2(B), and 7090-1, to Reflect Amendments to Orders Used in Adversary Proceeding

**CORONAVIRUS RELATED INFORMATION FOR THE PUBLIC**

Our court continues to take whatever steps are necessary to assist in ensuring reduced risk of any potential spread of this virus. In addition to the items posted below, please visit the court website: www.flsb.uscourts.gov for all public notices and administrative orders posted by the court in order to keep current with future updates and new notifications. For U.S. District Court, Southern District of Florida information on this topic, please visit that court's website at www.flsd.uscourts.gov.

The Clerk's Office in all divisions has resumed normal business hours of operation to serve the public for in-person filings between the hours of 8:30 a.m. and 4:00 p.m. on Monday through Friday. (See: [AO 2021-10](#) "Full Reopening of the Clerk's Office Intake Hours of Operation to Serve the Public for In-Person Filings".)

General Procedures For Hearings By Video Conference:

Individuals not represented by counsel are permitted to use court telephonic services FREE of charge. Amended pricing is available for other users. All attorneys shall advise their clients NOT to appear at the courthouse. Information regarding telephonic service providers and pricing and contact information for each judge is posted in notices on the court website.

https://www.flsb.uscourts.gov/sites/flsb/files/documents/judges/General_Procedures_for_Hearings_by_Video_Conference.pdf

The U.S. Trustee Program Telephonic or Video Section 341 Meetings.

The U.S. Trustee Program has extended the requirement that section 341 meetings be conducted by telephone or video appearance to all cases filed during the period of the President's "Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak" issued March 13, 2020, and ending on the date that is 60 days after such declaration terminates. [https://www.flsb.uscourts.gov/sites/flsb/files/documents/news/USTP_Notice_-_U.S._Trustee_Program_Extends_Telephonic_or_Video_Section_341_Meeting_\[August_28_2020\].pdf](https://www.flsb.uscourts.gov/sites/flsb/files/documents/news/USTP_Notice_-_U.S._Trustee_Program_Extends_Telephonic_or_Video_Section_341_Meeting_[August_28_2020].pdf)

U.S. Federal Center For Disease Control Website For Updated Information www.coronavirus.gov

Florida Department of Health websites for Miami-Dade, Broward and Palm Beach counties:

<http://miamidade.floridahealth.gov>

<http://broward.floridahealth.gov>

<http://palmbeach.floridahealth.gov>

Information About Face Masks: The CDC has advised that facemasks/coverings made at home from common materials available, or at low cost, can be used as a public health measure providing the mouth and nose are fully covered. The covering should fit snugly against the sides of the face so there are no gaps and should be washed after each use. Remember to handle your face-mask/covering by the ear loops or ties only and wash your hands often. For more information, visit

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

FLSB Court Website Link For Reporting Covid-19 Concerns and Issues:

<https://www.flsb.uscourts.gov/node/1246>

CENTER FOR DISEASE CONTROL EVICTION MORATORIUM IS NO LONGER IN EFFECT

The CDC (Center for Disease Control) Eviction Moratorium is no longer in effect, and there is no moratorium to protect Florida tenants from eviction.

For additional Covid 19 information and resources from Legal Services of Greater Miami please access this link:

<https://www.legalservicesmiami.org/covid-19>

In addition, this link on the Court website provides information on other legal aid programs

<https://www.flsb.uscourts.gov/legal-assistance-debtors>

EMERGENCY RENTAL ASSISTANCE (ERA) PROGRAMS

The United States Trustee Program is disseminating information about Emergency Rental Assistance (ERA) programs that may be available to debtors in bankruptcy. According to the Director of the USTP, Congress has appropriated more than \$46 billion in ERA funding and most of these appropriated funds remain available for use - primarily because eligible renters and landlords simply are not aware of them. The USTP has developed a one-page Emergency Rental Assistance Informational Notice, which provides an overview of ERA programs. For more information click here [\[English\]](#) [\[Spanish\]](#)

**FROM THE JUDGES' CHAMBERS****PLEASE COME BACK TO COURT**

By: Hon. Scott M. Grossman

Zoom is here to stay, and for good reason. It is vastly superior to remote hearing attendance by telephone. But maybe it's too good. Now that the COVID-19 pandemic is no longer a sufficient reason – in most instances* – to avoid coming to court, I encourage attorneys to attend court in person again whenever possible. In my view, at this stage of the pandemic attorneys should now be coming to court for substantive arguments, trials and other evidentiary hearings, chapter 11 confirmation hearings, and other significant matters.

Zoom works very well for short motion calendar hearings and for monthly chapter 13 calendars. Indeed, for monthly chapter 13 calendars (which frequently involve hearing well more than 100 cases in a single setting) proceeding with Zoom-only hearings makes tremendous sense, saves attorneys and their clients a lot of money, and is likely here to stay. Likewise, for pro se parties, allowing remote access to hearings by Zoom has been a tremendously positive development for access to justice. Whereas in the past a pro se party might have to take a whole day off of work (without pay) to attend a court hearing, now they can just log in by Zoom at the appointed time to address their matter, without sacrificing their wages.

And in larger chapter 11 cases, Zoom allows multiple professionals to attend a hearing that perhaps might not otherwise justify their travel expenses – particularly when that might involve out-of-town travel. But for local counsel and lead counsel for major constituencies in a large chapter 11 case, at this point in the pandemic it is my view – and strong preference – that these attorneys should now be coming to court in person in most instances.

Even for motion calendars, if you have more than one matter set on a motion calendar, or if you plan on making an extensive argument for or against a motion or application, you really should be coming back to court now. I know it is much easier in many instances to just “log in by Zoom” to a hearing. I also know that it can cost clients a lot less for an attorney to log into a hearing by Zoom than it does to have their lawyer travel to the courthouse and attend a hearing in person. That being said, there is something special about our American legal system and how we do business in person in a courtroom, that we shouldn't lose sight of.

Having a courtroom full of lawyers and seeing each argue a case before yours provides some of the best training for young lawyers, and can benefit senior lawyers by identifying potential lateral associate candidates. Further, while we have all learned that attorneys don't need to be in the same physical hallway to cut a deal “in the hallway,” there is still something to be said for in-person interactions – particularly in our very collegial bar. And for younger attorneys starting out and trying to establish themselves and their relationships with the bench and the bar, it is much preferable to present yourself as an in-person human, rather than a Zoom square.

So, while the implementation of Zoom for remote hearing attendance has been a welcome development, now that we are all learning to live with COVID-19, I strongly encourage attorneys – if they are healthy of course – to come back to court. I look forward to seeing you in person!

*Of course, if you are sick or feeling ill, or test positive for COVID-19 and CDC guidance dictates that you must isolate yourself, you should not come to court.



FROM THE JUDGES' CHAMBERS

**IMPORTANT CHANGES TO PROCEDURES IN ADVERSARY PROCEEDINGS**

By: Hon. Erik P. Kimball

The court has implemented changes to the scheduling orders in adversary proceedings and related amendments to Local Rule 7016-1. These changes bring our court in line with most district and bankruptcy courts. Please closely review any scheduling orders entered in newly filed adversary proceedings to be sure you understand the new procedures and requirements.

Rule 16 now explicitly applies, in its entirety, to adversary proceedings filed after the recent amendment to Local Rule 7016-1. Local Rule 7016-1 previously stated that Rule 16(b) did not apply. Note that Rule 16(b) (4) provides that a "schedule may be modified only for good cause and with the judge's consent." This standard applies to all deadlines set by the court in an adversary proceeding.

The initial hearing in each adversary proceeding is now called a Scheduling Conference to make clear its primary purpose. The prior use of the term Status Conference caused some confusion among practitioners, who often came unprepared to facilitate entry of a scheduling order in spite of the court's standard order stating this was the intent of the hearing.

Rule 16 directs the court to hold a hearing to consider scheduling concerns and then enter a scheduling order. In our court, the Scheduling Order is the revised local form "*Order Setting Filing and Disclosure Requirements for Pretrial and Trial*" [LF-68]. Rule 16 requires that the scheduling order contain certain deadlines, some of which were not addressed in our prior procedural orders. The revised procedure includes deadlines for joining parties and amending the pleadings, which are explicitly required by Rule 16, as well as deadlines for motions *in limine* and motions under Federal Rule of Evidence 702 (Daubert motions). If you wish to move any of these deadlines, that motion is subject to the "good cause" standard. In particular, I am unlikely to grant motions to permit amendment to the complaint after the deadline set in the Scheduling Order.

In litigation involving numerous parties, I sometimes allowed piecemeal modification of the procedural deadlines for each party. This made it difficult to identify the appropriate deadlines without extensive review of the docket. I now require that any request for change of deadlines addressed in the Scheduling Order be implemented through an amended and restated Scheduling Order so that there is always a single order addressing all deadlines for all parties.

In my view, it is rarely appropriate to move or continue the Scheduling Conference, even if a response has yet to be filed because the parties agreed to an extension. Until a Scheduling Order is entered after the Scheduling Conference, there are no deadlines in the adversary proceeding. If the parties represent that a case is fully settled and they have filed a motion for approval of the compromise, I will entertain a motion to continue the Scheduling Conference. Obviously, entry of an agreed judgment or dismissal will result in cancellation of the Scheduling Conference. Otherwise, the parties should be prepared to announce their proposed dates and deadlines at the Scheduling Conference and present an agreed form of Scheduling Order immediately after the Scheduling Conference.



FROM THE JUDGES' CHAMBERS

**THE IMPORTANCE OF MENTORING, FROM A MENTEE'S PERSPECTIVE**

By: Nicole McLemore, Term Law Clerk to the Honorable Mindy A. Mora

As a newer attorney, I frequently hear about the importance of mentorship. Mentors can help new attorneys discern what is usual in a case and what isn't, develop strategies to meet career goals, and navigate professional relationships. Fortunately, there are many programs and organizations that help connect experienced and new attorneys, but there are often far more interested mentees than mentors. You can - and should - help change that! Here are a few of the reasons why.

New attorneys face a learning curve as they begin practice, including many "things they don't teach you in law school" moments. Experienced attorneys can help fill the gaps by sharing their knowledge with the next generation. Developing relationships and connections between new and experienced attorneys also helps maintain a high level of practice throughout the local bankruptcy bar. By sharing lessons that they have learned from their successes and mistakes over the years, experienced attorneys can help newer attorneys succeed and avoid making the same mistakes. Ultimately, all practitioners will benefit from a higher level of practice.

Experienced attorneys also have a unique ability to facilitate a new attorney's integration into the Bar. Introducing a new attorney to prominent members of the Bar gives the new attorney the opportunity to join a network of professionals they can emulate and look to for guidance.

Being a mentor is also beneficial for the experienced attorney. By mentoring a new attorney, an experienced attorney will experience the fulfillment of paying it forward and contributing to the profession through that service. New attorneys often provide a fresh perspective and can in turn help the experienced attorney become a better supervisor and leader. Plus, newer attorneys may also teach their mentors about emerging technology and trends!

As a term law clerk, I am fortunate to have a mentor/mentee relationship with everyone in Judge Mora's Chambers. Before I joined the Court, I met several attorneys that I could (and still do) rely on for advice and guidance. These relationships have been pivotal to my continuing development as a newer professional.

Now, I serve as a mentor for law students and new attorneys, as well as enjoy a relationship as a mentee of more experienced attorneys. Seeing the mentorship process from both perspectives has highlighted the importance of mentorship for me.

I encourage all attorneys to mentor a new professional if they are not already doing so. Numerous mentorship programs exist in local, state, and national bar organizations for anyone interested in mentoring a new attorney. And, if those organizations are not a perfect fit, experienced attorneys seeking mentees can also volunteer to take a pro bono case with a junior attorney, either in their firm or through a local pro bono association (<https://www.flsb.uscourts.gov/pro-bono#pro-bono-committee>). The need for mentors is great, and the satisfaction of putting out your hand to lift someone else up in the profession cannot be overstated.



FROM THE JUDGES' CHAMBERS



JUDGE CRISTOL HONORED BY THE BOY SCOUTS OF AMERICA

On February 28, 1944, A Jay Cristol became the first Eagle Scout in Miami, Florida. Now, 78 years later, the Boy Scouts of America have honored him as an outstanding Eagle Scout. Judge Cristol went on to serve as a naval aviator in both the Korean and Vietnam conflicts, retiring from the U.S. Navy after 38 years of service. He received 13 medals from the Navy, including the Meritorious Service Medal. He was also awarded the Korean Ambassador for Peace Medal from the government of South Korea.

Judge Cristol flew for a number of years as an airline pilot for Eastern Airlines and is a member of the United Flying Octogenarians - still flying airplanes at age 92. He was awarded the Glenn Curtiss Award by The Greater Miami Aviation Association, and is a founding member of the National Naval Aviation Museum at Pensacola, Florida and the Wings Over Miami Aviation Museum at Miami, Florida. Judge Cristol also served at numerous Florida legislature sessions as a Special Assistant Attorney General.

He endowed the Eleanor R. Cristol Judge A Jay Cristol Pro Bono Legal Clinic to provide free legal services to indigent persons. Currently, he is serving his third term as United States Bankruptcy Judge with a planned retirement on 13 January 2023, after 37 years of service, including 7 years as Chief Judge.

ATTEND FREE PRO SE BANKRUPTCY CLINICS VIA ZOOM

During the COVID-19 pandemic, unless otherwise posted, all bankruptcy clinics are being conducted via Zoom. Each clinic will feature a 15-minute video providing an overview of certain procedures for filing bankruptcy, followed by a Question & Answer session staffed by one or more pro bono attorneys who are available to give general advice on bankruptcy matters. Attendees will be advised that the attorneys at these clinics do NOT represent them and will NOT provide them with legal advice regarding their particular circumstances.

Attendees are also advised that if they have already filed their case and it is still pending, they are solely responsible for responding to any pleadings or motions and for compliance with any order issued by the assigned Bankruptcy Judge or to a request for information and documentation from the assigned Bankruptcy Trustee. Attendees are also advised that unless they are represented by a lawyer, they are solely responsible for protecting their own legal rights. Notice is also provided to attendees at the program that this is a FREE service, and the attorneys are not there to attempt to acquire them as clients or ask them for payment for advice or future services.

Any person unable to access zoom due to a lack of equipment (a "smartphone" or suitable tablet), please email Steven Newburgh: snewburgh@mclaughlinstern.com. Assistance may be available.

Visit this link on the court website for additional information and dates scheduled for these clinics.:

<https://www.flsb.uscourts.gov/node/231>



ARE BANKRUPTCY FILINGS COMING BACK?

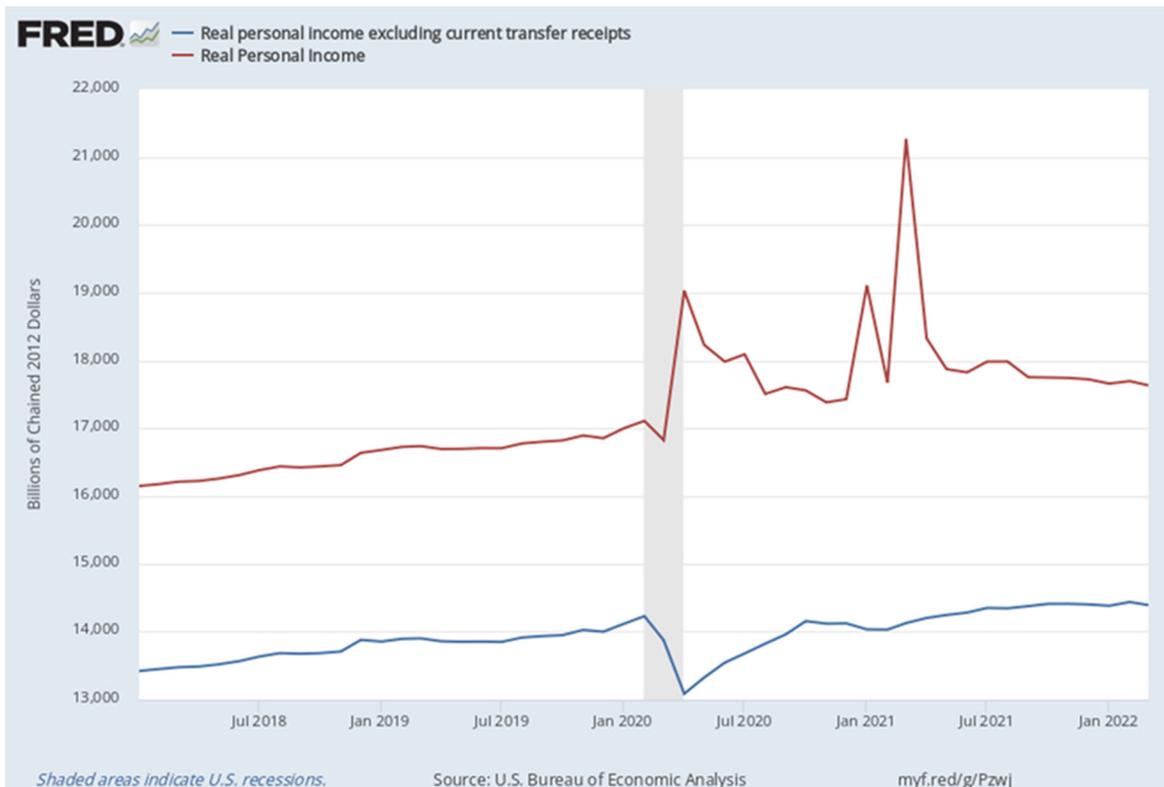
By: **Guest Contributor William Rule, Senior Economist,
Administrative Office of the U.S. Courts**

**(Note: The views expressed by Mr. Rule do not reflect the official position
of the Administrative Office of the U.S. Courts)**



Forecasting bankruptcy filings is seemingly impossible. That being said, I have some thoughts.

The current situation is not comparable to any prior recession or natural disaster. As far as natural disasters are concerned, we have not had a natural event that affected the entire country at essentially the same time in a century. Most post-WWII recessions have been of the normal business cycle variety. The only comparable to the current situation might be the 1918 flu pandemic. More on that later.



One reason for the rapid recovery of the economy is the unprecedented level of government support that flowed into the private sector. The graph above shows the level of real personal income with and without government transfer payments. Those pandemic-induced transfers included the \$600 per week extra unemployment benefit paid by the government, as well as the direct checks, child tax credit payments, PPP payments, and other smaller programs. As a result of this government largess, personal savings jumped significantly and has only recently returned to near-normal levels. This suggests that individuals have managed to spend the extra money.

(Continued on page 9)



ARE BANKRUPTCY FILINGS COMING BACK? (continued from page 8)



One of the leading indicators used by the AOs forecasters is the household debt service ratio. This is the ratio of household debt service payments (excluding mortgages) relative to disposable personal income. The persistent very low interest rates of the past 10 years combined with consumer deleveraging following the Great Recession kept this ratio very low in historical context. The pandemic transfer payments increased personal income, driving the debt service ratio even further down.

However, several factors suggest that the ratio will rise significantly in the next months. These include the return of the government's transfer payments to near normal levels, driving down the denominator of the ratio. Further, the Fed's pursuit of interest rate increases will drive the interest consumers pay on revolving debt and new non-revolving debt higher. Finally, the amount of both nonrevolving and revolving consumer debt is rising. Nonrevolving debt continues to increase at slightly elevated rates relative to recent pre-pandemic increases. Revolving debt, however, has recently soared, with increases in the first three months of 2022 of 11.8%, 16.2% and 35.3% respectively (monthly increases at annual rates). These are multiples of the pre-pandemic increases ranging from 3.6% in 2019 to 5.9% in 2017. This means that both components of the numerator are increasing while the denominator is decreasing, meaning that all three components are working to increase the ratio.

Statisticians at the Administrative Office of the U.S. Courts suggest that increases in the debt service ratio tend to lead to increases in bankruptcy filings with a one to two year lag, meaning that the current increases would be expected to drive up filings in 2023 or 2024.

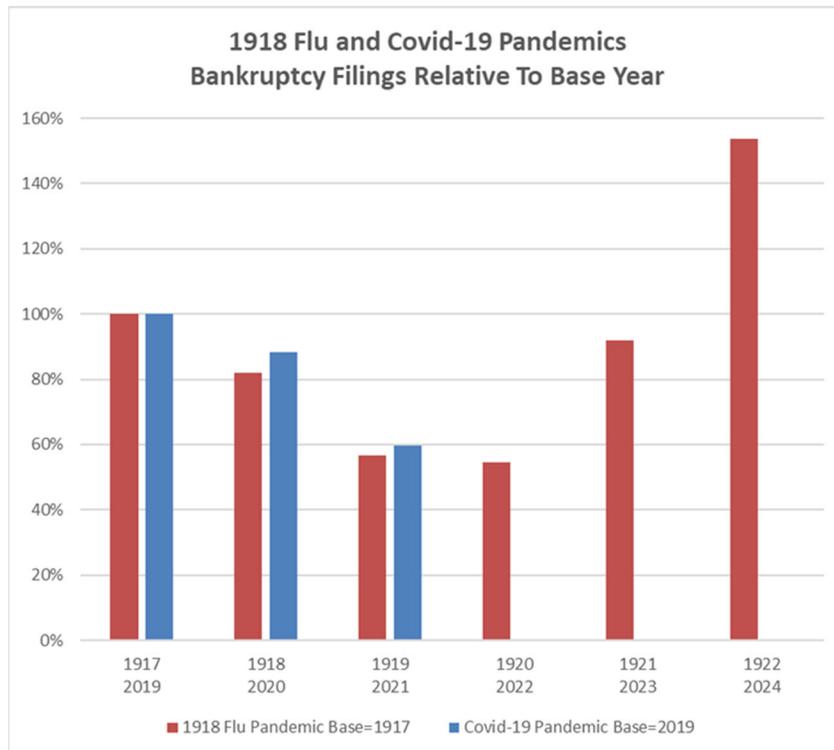
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ARE BANKRUPTCY FILINGS COMING BACK? (continued from page 9)

The end of the eviction and foreclosure moratoriums was expected to lead to an increase in filings. However, the firms that generate foreclosures and evictions laid off staff like many other businesses, and it has taken time to restaff. Further, many jurisdictions rely on judicial foreclosure and those channels are working through their own backlogs. Finally, both judicial and nonjudicial foreclosure states have various waiting periods built into the foreclosure process. Nevertheless, I believe we are beginning to see the effects of the renewed activity in foreclosures and repossessions that drive many chapter 13 filings. While chapter 7 filings have continued to decline, chapter 13s are beginning to rise. Increases in monthly filings compared to the same month in the prior year have been spreading across districts. In September 2021 there were 35 (of 90) courts with increases, with a median change of -3.2%. By December there were 51 courts with increases in filings of 13s, with a median increase of 5.3%. In March, 2022 there were 73 courts with increases in 13s, with a median increase of 21.1%. Thus, the evidence suggests that the ship is beginning to turn.

To return to comparables, there are many reasons not to try to compare the COVID pandemic to the 1918 flu pandemic. The economy has radically changed, technology that was unimaginable in 1918 is commonplace, the population is more urban and much less agrarian, etc. But that being said, I noted that both pandemics effectively started in March. Filing statistics in the early part of the twentieth century were collected on a June 30 year end, so I looked at filings by year for both pandemics, comparing their annual filings to the appropriate base year, 1917 and 2019. In the first year filings fell relatively more in the 1918 pandemic than Covid. By the second year out from the base (1919 and 2021) filings had dropped by more comparable amounts. We are getting close to the third year out for the COVID pandemic and it looks as if the COVID pandemic will show a slightly larger drop from the base than the 1918 pandemic. If filings continue on about the same path, the years ending June 30, 2023 and 2024 will see annual increases from the prior year of 68% and 67%, taking filings from about 420,000 in 2022 to 710,000 in 2023 and 1.2 million in 2024. Whether this constitute the “tidal wave” some suggested would befall us I can’t say. But if this is the path the recovery in filings takes, we will get much busier very quickly.



**PRO BONO CORNER**

BY:
STEVEN S. NEWBURGH, ESQ.
(GUEST CONTRIBUTOR)
LAY CHAIR,
PRO BONO COMMITTEE

**JUNE 2022**

A few minutes before sitting down to write, I received an email from the Bankruptcy Bar Association's Pro Se Clinic administrator. She advised that we have 12 registrants for tomorrow's Pro Se Clinic. Peter Kelly, our Pro Se Clinic Chair, along with Joe Grant and myself, have waited a long time to have a joint presentation of our Pro Se Clinic, but the largest audience we have seen in several months has been only 2 individuals, one of whom had already filed. The Pro Se Clinics are so important. This is where we can impress upon the attendees the importance of retaining counsel. We describe some of the pitfalls and present questions to attendees – taken right out of the Schedules and Statements, but that can't be answered by anyone in the room. We see general bewilderment when discussing Schedule C. Every now and then, we get a question from someone who moved to our District a bit less than 2 years ago and they need to know whether they have the option to elect Federal Exemptions. In fact, most Pro Se filers (prospectively Pro Se), have no idea how to properly allocate exemptions even where the prospective debtor knows that they can only take Florida Exemptions. Then, we always seem to get the chapter 13 questions and these are the tough ones; but by the time we have shown our attendees how exemptions work in determining how much is to be repaid to unsecured creditors, we've lost our audience. Then come questions about "value". Everyone knows how important it is for a debtor's assets to be properly valued and how the Means Test controls what the debtor can and cannot do. You would be surprised at how many attendees at our clinics do not understand that we view value as a function of its salability. Technically, we don't know "true value" in bankruptcy unless we have sold the asset via 363. The interconnections between various Schedules and Statements are easy for us to see, as bankruptcy professionals and our uniformly super staff, but what about the prospective Pro Se filer? It is difficult for all of us when we are involved in a case where the debtor does not have counsel. While we all extend every possible courtesy and our court does the same, twice, three times, maybe four times over, a defective case filing is a nightmare. Arguably, those who bear the brunt of the "problem" cases are our Panel Trustees. A "no asset" case is a no asset case and the trustees who are then working for free, apart from that meager slice of the filing fees, are losing time and money that can be better spent on properly filed asset cases. This is why our Pro Se Clinics should be supported and at every opportunity by our Bench and Bar and by our Panel Trustees. Thankfully, almost all of our Panel Trustees refer "problem" Pro Se debtors to the BBA's Pro Bono Program. Intervention by our BBA volunteer lawyers saves the day for everyone.

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**MIGRATION TO NEXTGEN IS COMPLETE:
E-FILER REGISTRATIONS AND COMMONLY ASKED QUESTIONS**

By: Cameron Cradic

E-Filer Registrations

The Bankruptcy Court for the Southern District of Florida is now LIVE on NextGen as of Monday, April 4, 2022. As part of the migration, thousands of attorneys, trustees, and Filing Agents upgraded or created an individual PACER account. Next, before e-filing their first document, they linked their PACER account to local court-issued credentials, which was the former CM/ECF system’s login and password. The linkage of the two accounts is done by logging into NextGen with the PACER account and clicking [Utilities > “Link a CM/ECF account to my PACER account.”](#) Thereafter, only the PACER account is used for all e-filing and query functions.

The Bankruptcy Court and clerk’s office wishes to convey a hearty THANK YOU to those who completed the linking process and are now successfully e-filing in NextGen.

For brand new NextGen users, *those who do not have local court-issued credentials*, the process of becoming an e-filer is slightly different. Instead of linking a PACER account to local credentials, the user must complete two steps.

First, he or she must create a new individual PACER account and convert it from “query only” to “e-filing and query” access. To do so, view the following tutorial titled Requesting Attorney Admission:

<https://pacer.uscourts.gov/help/cmecf/requesting-attorney-admissions>

Second, he or she must email a signed local registration form to the clerk’s office (the email address is on the form). When the clerk’s office has both the electronic request from PACER, as well as the signed local registration form, the clerk’s office will approve the new user’s request and send an email of acknowledgment. For reference, the local forms are available at <https://www.flsb.uscourts.gov/forms/local-forms> as Local Forms 94, 95 or 96.

Acknowledgment of Responsibility and Registration Form Full Attorney Privileges (rev. 04/04/22)	LF-95	[PDF]	[DOC]
Acknowledgment of Responsibility and Registration Form Limited Filer (rev. 04/04/22)	LF-96	[PDF]	[DOC]
Acknowledgment of Responsibility and Registration Form Trustee (rev. 04/04/22)	LF-94	[PDF]	[DOC]

(Continued on page 14)



NEXTGEN E-Filer Registrations and Commonly Asked Questions (continued from page 13)

Commonly Asked Questions

Question: Can an attorney have an e-filing account AND a query only account?

Answer: Yes, an additional shared PACER account may be set up for *query-only* purposes. Regarding shared PACER accounts, know that the account holder and the attorney's name on a filed PDF image must match. An attorney's PACER login for e-filing constitutes an electronic appearance and consent to receive electronic service of all court documents. Accordingly, shared accounts can be used for query purposes, but not for e-filing.

Question: My Filing Agent, who is my paralegal, could not pay a court filing fee after e-filing a motion. My attorney account is now locked out for nonpayment. How do I enable payments for my Filing Agent?

Answer: Setting up payment access for Filing Agents is discretionary, not mandatory. So, let's assume that the attorney has already added the Filing Agent to their account in the usual manner. To set the permission to pay, the attorney must log into NextGen and click [Utilities > Maintain Your ECF Account > More User Information > click on the Filing Agent's name > at the pop-up window, change "Internet Payment" to Y > click Save within that window > click the Return to Account Screen button > click the Submit button.](#)

More User Information for Cameron Q. Cradic

[Update Account Information](#)

Login cradicaty

Person ID 8183

Person Authorization ID 109

Public User ID 7008317

Judiciary User ID

E-Filing Status Active

Internet Payment Y

Groups Attorney, E-Orders Attorney

Filing agents

Uncheck the box to remove a filing agent.

[Kawasaki, Trixie](#) [Law Office of Cameron Q. Cradic, 1515 N Flagler Dr. #801, West Palm Beach, FL 334

[Racer, Speed](#) [1515 N Flagler Dr. #801, West Palm Beach, FL 33401, 561-514-4100, Account ID: 704477

[Racer, Trixie](#) [1515 N. Flagler Dr. Suite 801, West Palm Beach, FL 33401, 561-514-4100, Account ID: 70

Find filing agent

[Return to Account screen](#) [Clear](#)

Update Filing Agent Permissions

Trixie Kawasaki filing for Cameron Q. Cradic

Internet Payment Y

Groups Attorney E-Orders Attorney

[Save](#) [Clear](#)

*****IMPORTANT***** Modifications the Update Account Information screen will be saved **ONLY IF** the [Return to Account Screen > Submit buttons](#) are clicked.



HOW WELL DO YOU KNOW OUR LOCAL RULES?

By: Lorraine Adam

Using your memory or the index to the local rules, circle the correct local rule number for each of the local rule titles provided below. The local rules can be found on the court webpage at: www.flsb.uscourts.gov, under the Rules and Procedures tab. You may use the search box or the index in PDF version of the local rules also found on the local rules webpage. (Answers are on page 16.)

1. Referral of Pro Se Parties to Pro Bono Representation

- (a) LR 9072-1 (b) LR 9071-2 (c) LR 9021-1

2. Certificate of Service

- (a) LR 9013-1 (b) LR 9013-2 (c) LR 9013-3

3. Reaffirmation

- (a) LR 4004-3 (b) LR 4008-1 (c) LR 4003-1

4. Cash Collateral

- (a) LR 4001-2 (b) LR 4001-3 (c) LR 4001-1

5. Conversions - Request for/Notice of

- (a) LR 1014-1 (b) LR 1075-1 (c) LR 1017-1

6. Attorney Discipline

- (a) LR 2090-2 (b) LR 2081-1 (c) LR 2091-1

7. Ballots, Voting on Chapter 11 Plan - Deadline

- (a) LR 3017-6 (b) LR 3020-1 (c) LR 3018-1

8. Sale of Property

- (a) LR 6005-1 (b) LR 6004-1 (c) LR 6007-1

9. Exhibits

- (a) LR 9075-1 (b) LR 9037-1 (c) LR 9070-1

10. Objections to Claims

- (a) LR 3007-1 (b) LR 3012-1 (c) LR 3002-1

11. Employment of Professionals

- (a) LR 2016-1 (b) LR 2014-1 (c) LR 2090-1

12. Default

- (a) LR 7055-1 (b) LR 7026-2 (c) LR 7041-1

1-5 correct: Learn the Local Rules

5-10 correct: Read the Local Rule

10-12 correct: Local Rule Expert

**HELP DESK CORNER**

By: Lorraine Adam

The help desk corner will highlight questions the clerk's office routinely receives by telephone or through the court's website at: <https://www.flsb.uscourts.gov/contact-us>. Whether you are contacting the Miami, Ft. Lauderdale, or West Palm Beach division, clerk's office staff are readily available to assist you during court hours of 8:30 am to 4:00 pm.

Miami:	305-714-1800
Ft. Lauderdale:	954-769-5700
West Palm Beach:	561-514-4100



I received a notice about something I e-filed yesterday that didn't go through. It says:

Notice to Filer of Apparent Filing Deficiency: Motion Required to Amend Petition to Correct Debtor(s) Name. THE FILER IS DIRECTED TO FILE AN EX PARTE MOTION TO CORRECT DEBTOR(S) NAME PURSUANT TO LOCAL RULE 1009-1(B).

What do I need to do? I'm not changing a name, I'm adding an alias.

You received a Notice to Filer of Apparent Filing Deficiency, also known as an NAFD. That notice is broken down into two parts. The first part identifies what needs to be corrected. The second part, in red, identifies what needs to be done. Local Rule 1009-1(B) covers all other names as well. You will need to file the motion using the Amend event under the Motions/Applications menu, then link the motion it to the voluntary petition. Don't forget to upload the order!

Answers to Page 15 Quiz- "How Well Do You Know The Local Rules"

1. Referral of Pro Se Parties to Pro Bono Representation: (b) LR 9071-2
2. Certificate of Service: (c) LR 9013-3
3. Reaffirmation: (b) LR 4008-1
4. Cash Collateral: (a) LR 4001-2
5. Conversions—Request for/Notice of: (c) LR 1017-1
6. Attorney Discipline: (a) LR 2090-2
7. Ballots, Voting on Chapter 11 Plan—Deadline: (c) LR 3018-1
8. Sale of Property: (b) LR 6004-1
9. Exhibits: (c) LR 9070-1
10. Objections to Claims: (a) LR 3007-1
11. Employment of Professionals: (b) LR 2014-1
12. Default: (a) LR 7055-1



FLORIDA SOUTHERN BANKRUPTCY MORTGAGE MODIFICATION MEDIATION STATISTICS

(From April 1, 2013 through May 31, 2022)

	<u>MIA</u>	<u>FTL</u>	<u>WPB</u>	<u>TOTAL</u>
MMM Motion (Attorney Rep.)	8041	5361	3092	16494
MMM Motion (Pro Se)	106	46	30	182
Total Motions Filed	8147	5407	3122	16676
Order Granting MMM Motion	7149	4722	2644	14515
Final Report of Mediator	6088	3773	2081	11942
Mediation Agreement Reached	2627	1784	977	5388

MMM MOTIONS FILED BY MONTH (Attorney Rep. & Pro Se)

	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>		
MIAMI														
2013				18	82	106	137	130	173	181	169	141		1137
2014	171	157	184	179	170	164	156	126	198	146	123	138		1912
2015	161	168	189	183	142	164	127	122	127	108	93	93		1677
2016	111	124	79	102	119	110	60	92	99	84	78	74		1132
2017	59	49	59	52	59	56	54	44	48	57	63	39		639
2018	40	48	54	64	57	44	59	50	44	52	40	39		591
2019	57	39	48	41	48	35	31	42	45	45	35	23		489
2020	35	38	24	20	31	19	8	14	5	15	9	18		236
2021	18	19	15	22	18	18	14	16	21	16	11	29		217
2022	31	13	22	24	27									117
													TOTAL =	8147
FT. LAUDERDALE														
2013				49	92	98	116	144	189	118	99	77		982
2014	91	82	69	108	89	89	107	61	99	100	121	95		1111
2015	96	101	109	89	94	94	82	74	93	89	91	79		1091
2016	86	81	58	61	68	63	46	75	59	43	54	50		744
2017	38	25	38	26	47	42	40	34	33	39	29	26		417
2018	20	21	36	24	33	43	47	46	28	33	26	21		378
2019	34	20	31	24	28	20	20	18	25	19	26	19		284
2020	26	13	25	19	22	17	8	12	5	5	6	8		166
2021	9	21	13	12	8	5	15	9	9	16	15	20		152
2022	16	12	15	17	22									82
													TOTAL =	5407
WEST PALM BEACH														
2013				9	35	56	91	83	147	63	68	67		619
2014	47	43	64	54	66	74	54	43	83	52	49	44		673
2015	51	57	52	41	47	54	48	39	35	35	33	36		528
2016	46	33	33	32	36	29	29	32	18	13	16	25		342
2017	22	18	21	22	20	10	23	27	18	24	17	13		235
2018	19	8	10	15	21	20	26	18	24	25	13	12		211
2019	22	20	13	28	14	20	27	19	10	31	18	10		232
2020	16	14	18	13	10	10	15	5	11	11	7	13		143
2021	4	8	6	4	7	6	7	10	9	5	19	10		95
2022	1	0	12	5	6									24
													TOTAL =	3102

UPCOMING COURT HOLIDAY CLOSINGS *

Monday, June 20 - Juneteenth National Independence Day Monday, July 4—Independence Day
 Monday, September 5 - Labor Day Monday, October 10 - Columbus Day Friday, November 11 - Veterans Day

*Any additions to the court closing schedule are announced by General Order and posted on the court website

<http://www.flsb.uscourts.gov/general-orders>

COURT MISSION STATEMENT

To promote public trust and confidence in the administration of bankruptcy cases:

- through easy access to comprehensible, accurate information about the court, its procedures, and records;
- by the efficient, respectful, and dignified conduct of business at all levels of the court—clerk’s office, chambers and courtroom;
- through adjudication of bankruptcy cases by a fair and impartial tribunal that is designed to provide relief to the honest debtor, equitable distribution of available assets to creditors, and preservation of jobs and value through successful business reorganizations.

CONTACT “COURTHOUSE BEACON NEWS” PUBLICATION STAFF

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

Debbie_Lewis@flsb.uscourts.gov.

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

Visit the court website www.flsb.uscourts.gov for local filing information.

Thank you.

Miami: (305) 714-1800

Ft. Lauderdale: (954) 769-5700

West Palm Beach: (561) 514-4100

Please Note:

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