

## 2017 – A Year of Change

By: Sheryl Loesch, Clerk of Court

This is the time of year where people reflect over the events of the past year and then turn their attention to the future. Many of us wonder where the time went as the year seemed to pass quickly.

A couple years ago and quite by chance, I stumbled upon a blog written by Anuschka Rees, a woman from Berlin who customarily writes about fashion topics. Instead of blogging about fashion, Ms. Rees wrote an interesting feature on reflections at years' end and ways to think about the upcoming year. Instead of suggesting the typical New Year's resolutions frequently broken, she offers actual questions to use to "reflect and appreciate" the events of the past year, and to then "get excited" for the upcoming year.

While I will not list all the questions suggested by Ms. Rees (you can easily google her and find the list if you are so inclined), I would like to list a few I found valuable.

1. What new things did you discover about yourself?
2. What single achievement are you most proud of?
3. What was the best news you received?
4. Which of your personal qualities turned out to be the most helpful this year?
5. Which new skills did you learn?

Some questions suggested to use when looking toward the new year include:

1. What do you want to see, discover, explore?
2. What skills do you want to learn, improve, or master?
3. Which personal quality do you want to develop or strengthen?
4. Which habits do you want to change, cultivate, or get rid of?
5. What do you want to achieve career-wise?

While these are only a few of the questions suggested for personal reflection, you get the idea.

When I think back over this past year, I am amazed at the substantial changes that took place in our court. One exciting change was the rollout of The Source. This was the culmination of the herculean efforts of Judge Jennemann, Danielle Merola, Kim Osment, and Marco Equia, along with the members of the Procedures Committee, and the assistance of Raymond Waguespack and Christine Baker who assisted by reviewing the drafts. This initiative has captured the attention of other courts who are envious of having such a resource. We should each feel very proud to be part of such a dynamic court – I know I am! Kudos to all involved.

Earlier in 2017, our court said goodbye to its beloved Clerk of Court, Lee Ann Bennett, as she embarked upon a new career as the Deputy Director of the Administrative Office of the United States Courts – another proud moment for the Bankruptcy Court for the Middle District of Florida. This change was bittersweet as it was sad to see our friend and colleague leave the Middle District of Florida; however, how exciting to have someone in such a high level position in Washington who understands not only bankruptcy courts, but who also understands large bankruptcy courts and what they face each day. We are very happy for Lee Ann's achievement and know she is just a phone call or email away.

We are also saying goodbye to our beloved Judge May as he enters the new phase of life as a retiree. We are happy for him as he starts down this new path but we will miss him and hope he stays in touch and keeps us updated on his adventures.

While saying goodbye to Judge May, we also get to welcome Judge Colton as an official judge in the Middle District of Florida. This court has been so fortunate to have such wonderful judges. We truly are a court family.

When I think back over the past year, there are some things I will not miss – hurricanes and I-4 construction come to mind (although I know the I-4 construction will remain with us for years to come.)

I cannot believe that I have been your clerk for nine months. I want to thank each one of you for making me feel so welcome and for all your support of the judges and the clerk's office this past year. This is truly a great court. I wish each one of you Happy Holidays and all the best in the coming year. We will definitely make it another great one.

## U.S. TRUSTEE SPOTLIGHT

*By Jill Kelso, Trial Attorney, Orlando Office of the U.S. Trustee*

The Orlando and Tampa Offices of the United States Trustee would like to make the following announcements:

- Region 21 – Florida, Georgia, Puerto Rico, and the U.S. Virgin Islands: Daniel M. McDermott was appointed as the interim U.S. Trustee for Region 21 effective January 7, 2018. Mr. McDermott also will continue as U.S. Trustee for Region 9 (Michigan and Ohio), where he has served since his appointment in July 2008. Region 21 is headquartered in Atlanta with additional offices in Miami, Orlando, Tallahassee, and Tampa, Florida; Macon and Savannah, Georgia; and San Juan, Puerto Rico.
- Amended Chapter 11 Quarterly Fee Schedule: Pursuant to the Bankruptcy Judgeship Act of 2017, (Pub L. No. 115-72), the chapter 11 quarterly fee schedule established by 28 U.S.C. § 1930(a)(6) is amended effective January 1, 2018. Please address any questions concerning this change to your local Office of the United States Trustee.

**Pro Bono Honor Roll for Tampa Clinic**  
**Submitted by Judge McEwen**

The judges and case managers THANK YOU for helping pro se's to operate more efficiently!

<b>Attorney</b>
Barnett, Michael*
Benkabbou, Salma
Case, Kenneth
Dammer, Samantha*
DeLeon, Robert
Fogarty, Daniel (SRBP)
Freeman, Thaddeus
Gatto, Karen
Hale, Matthew (SRBP)
Harris, Amy Denton (SRBP)
Hart, Barbra (SRBP)
Hooi, Michael (SRBP)
Noel, Nicole*
Petry, Kelley*
Robens, Mark (SRBP)
Rock, Daniel
Rosato, Gina
Sierra, Timothy
Stricker, Lauren
Hilda Portales Sills (SRBP)
Sobotta, Jane
Stichter, Scott
Stricker, Lauren
Tate, Suzy*
Ziegler, Michael

\*=Quarter's leaders

## **A Judge's Journey**

On April 1, 2016, United States Court of Appeals for the Eighth Circuit appointed the Honorable Roberta A. Colton as a bankruptcy judge for the District of South Dakota. She was given her oath by Circuit Judge Duane Benton on July 15, 2016. Under an approved Bankruptcy Judge Vacancy Pilot Program, Judge Colton was designated to the Middle District of Florida and served in the Orlando Division.

On December 15, 2017, Judge Colton was sworn in as the newest bankruptcy judge of the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, filling the vacancy created by the retirement of Judge K. Rodney May.

Congratulations to Judge Colton for “officially” joining our Florida Middle Bankruptcy Court family!



Judge Colton being sworn in by the  
Honorable Charles R. Wilson of the U.S. Court of Appeals for the Eleventh Circuit

## **Retirement & Portrait Ceremony in Honor of Judge May**

On December 4, 2017, over 200 people, including the Judges and court staff of the Bankruptcy Court, members of the Tampa Bay Bankruptcy Bar Association, District and Magistrate Judges and other dignitaries, as well as attorneys from around the state of Florida gathered to honor the Honorable K. Rodney May on the occasion of his retirement. The retirement and portrait unveiling ceremony was held in the 17th Floor Ceremonial Courtroom in the Sam M. Gibbons United States Courthouse in Tampa. Judge May's family, many friends, and retired chambers staff were also in attendance.

The ceremony, presided over by Hon. Michael G. Williamson, Chief Judge of the United States Bankruptcy Court for the Middle District of Florida, began with the Pledge of Allegiance lead by Judge May's daughter, Lauren, followed by the Invocation given by Judge May's son, Andrew. Remarks followed from Hon. Steven D. Merryday, Chief Judge, United States District Court for the Middle District of Florida; Lee Ann Bennett, Deputy Director of the Administrative Office of the U.S. Courts and former Clerk of Court of the United States Bankruptcy Court for the Middle District of Florida; Scott A. Stichter, Tampa Bay Bankruptcy Bar Association President; attorneys Mark J. Wolfson, Jeffrey W. Warren, and Leonard H. Gilbert; and attorney and former law clerk to Judge May, Barbara A. Hart. This was followed by the unveiling of the portrait by Judge May and his wife, Charo. After closing remarks by Judge May, the attendees adjourned to a reception at the University Club where a video of recorded tributes to Judge May by his fellow judges, attorneys, and court staff was featured.

The portrait was commissioned by members of the bar and was painted by Jon Houghton, one of the most accomplished portrait artists in the country. It now hangs in Courtroom 9A, the courtroom in which Judge May presided for 14 years.



## Tampa's **Pirate** Invasion

On January 23rd, the Gasparilla festivities began as pirates from Ye Mystic Krewe of Gasparilla invaded downtown Tampa and demanded the key to the city from Mayor Bob Buckhorn. Unfortunately, a member of our Court family (Judge McEwen) was captured during the invasion.



**FLMB's Resource Hub—The Source**  
By: Alyson Johnson & Danielle Merola, Orlando

The United States Bankruptcy Court for the Middle District of Florida has established a goal of keeping the website current, accurate, helpful, and accessible. You may have noticed some changes to the website over the last few months, and we look forward to bringing you more positive changes in the future.

Most noticeable is the Court's new one-stop-shop page, "The Source." Consider this the Court's go-to spot for resources that users need and frequently use. If what you are looking for used to be somewhere else on the website and you no longer see that item, it is most likely in The Source. More items will move to The Source soon. If you check out the Procedure Manual, you can see it is searchable and has many new and improved resources. We hope to move *all* our procedures to one spot to make it easier for users to find the information they need and help our website workers keep the information current.

In addition to the Procedure Manual, The Source includes our Local Rules and Administrative Orders, court calendars for each Judge, CLE information and materials, and the negative notice and accompanying orders lists. The Source can also be easily accessed through the mobile version of our website.

Going forward, users should expect updates and additions to the Procedure Manual and The Source on a quarterly basis. Updates will be made to procedures, if necessary, based on recent changes to the Federal Rules of Bankruptcy Procedure. Each procedure contains links to the Bankruptcy Code and Rules, if applicable. These links will be periodically checked and updated for accuracy.

In December 2017, we updated the Court's procedures on Mortgage Modification Mediation ("MMM") and added a new procedure on how to become an MMM mediator. We shifted the information that appeared on the website about MMM into the Procedure Manual.

In January 2018, the Court anticipates these procedures and sections will be added:

- Pro bono cost reimbursement
- Applications to Employ
- Motions to Declare Secured Claim Satisfied and Lien Released
- Transcripts
- Certified Copies
- Filing without an Attorney

**Court Connection**  
**Volume No. 7 – Issue No. 1**  
**January 2018**

This is an ongoing collaborative project. We always welcome comments, questions, and feedback. Please feel free to email [flmb\\_procedures@flmb.uscourts.gov](mailto:flmb_procedures@flmb.uscourts.gov) at any time.

## **Central Florida Bankruptcy Law Association**

By: Ryan Davis, Esquire

CFBLA celebrated its 25th Anniversary this year! Thank you for the support of our members, the judiciary, and the courthouse staff over the years. It goes without saying that the CFBLA has helped create a camaraderie amongst us that has made the bankruptcy practice here in Central Florida unique and special.

In honor of its 25-Year Anniversary, CFBLA hosted a special evening at the Citrus Club in downtown Orlando on November 16, 2017. At the dinner, CFBLA honored this year's recipients of the Jules S. Cohen Professionalism Award: Robert Higgins, of the Lowndes, Drosdick firm, and Peter Hill of Heron Hill. They regaled us with their stories, along with some interesting metaphors. It was a night to be remembered, with remarks by other legends of our bankruptcy bar, including Jules Cohen, Sam Zussman, and Chief Judge Williamson.

CFBLA also spread some good cheer by hosting a holiday party at the BakerHostetler firm on December 7, 2017. Thanks to our fabulous administrator, Noreen Shaughnessy-Benford, for planning a festive evening for our members. The risotto bar was a big hit for all of those in attendance!

CFBLA provides its members with a number of CLE and networking opportunities that you won't want to miss. If you have not already done so, be certain to begin or renew your membership right away. Go to [www.cfbla.org](http://www.cfbla.org) and click the membership application link. If you're new to CFBLA check out our website for some great information and how to become a member.

### **Upcoming Event:**

January 25, 2018: General Membership Luncheon, at GrayRobinson in downtown Orlando. Guest Speakers: Jeff Ainsworth and Jon Kane re: Supreme Court decision of *Husky International Electronics v. Ritz* (523(a)(2)(A) issue).

## **Southwest Florida Bankruptcy Professionals Association**

### **Luis Rivera of Henderson Franklin Starnes & Holt, P.A. Selected as Emerging Leader in ABI's "40 Under 40" Initiative**

The American Bankruptcy Institute announced that Luis Rivera has been selected as an emerging leader in ABI's inaugural "40 Under 40" initiative. The initiative was launched this year to identify 40 of the top insolvency industry professionals under the age of 40. The recipients were recognized at ABI's 2017 Winter Leadership Conference, which took place Nov. 30-Dec. 2 at the La Quinta Resort & Club in Palm Springs, Calif.

Mr. Rivera has broad experience in business litigation, bankruptcy, creditors' rights, and insolvency counseling. He is Board Certified in Business Bankruptcy Law and Consumer Bankruptcy Law by the American Board of Certification. Since 2010, Mr. Rivera has also served as a U.S. Bankruptcy Trustee for the Middle District of Florida (Fort Myers Division). Mr. Rivera's bankruptcy experience includes representation of lenders, landlords, individuals, and financial institutions in both consumer (chapter 7 & 13) and chapter 11 reorganization cases, as well as involuntary and discharge proceedings. As a trustee, he is also routinely involved in the liquidation of business enterprises, including the recovery and sale of assets; the investigation, development, and prosecution of litigation to recover funds for creditors; and the reconciliation and payment of claims held by creditors. Mr. Rivera has been recognized for his professional achievements, including being honored by *Florida Super Lawyers Magazine* (2009-17), receiving the Alexander L. Paskay Professionalism Award by the Southwest Florida Bankruptcy Bar Association (2015), and achieving the highest AV rating by Martindale-Hubbell.



Mr. Rivera with Patricia Redmond, Chair of the Selection Committee

## **Upcoming Bar Events**

### **Fort Myers**

February 1, SWFBPA meetings  
February 22, Location: Federal Courthouse Building, 2nd floor, Jury  
March 22 @ noon Assembly Room

April 19 @ noon SWFBPA meeting – Judge Williamson’s State of the District  
Location: Federal Courthouse Building, 2nd floor, Jury  
Assembly Room

### **Orlando**

May 17 CFBLA Annual Seminar – Judge Williamson’s State of the  
9:00 am - 5:00 pm District  
Location: Citrus Club, 225 S. Orange Ave., Suite 1800

### **Tampa**

February 8 Federal Bar Association – Hidden Figures: Honoring  
11:45 am - 1:30 pm Trailblazers in Tampa Bay  
Location: Floridan Palace Hotel, 905 N. Florida Ave.

February 13 TBBBA CLE Luncheon – Guest Speakers: Dominic Isgro,  
Andrew Ghekas, and Bradley Crocker - The “Conduit” Circuit  
Split: Resolving the Scope of the § 546(e) Safe Harbor  
Location: University Club, 201 N. Franklin St., Suite 3800

March 6 TBBBA Consumer Lunch  
Location: Sam M. Gibbons U.S. Courthouse 5th Floor Training  
Room

March 20 TBBBA CLE Luncheon – Judge Williamson’s State of the  
District  
Location: University Club, 201 N. Franklin St., Suite 3800

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April 3                      TBBBA Consumer Lunch  
Location: Sam M. Gibbons U.S. Courthouse 5th Floor Training Room

April 10                    TBBBA CLE Luncheon – Guest Speakers: Judge McEwen, Austin Calhoun, Adam Alpert, and Kathleen DiSanto - Involuntary Bankruptcy Cases  
Location: University Club, 201 N. Franklin St., Suite 3800

**Jacksonville**

March 27 @ noon        JBBA Luncheon – Judge Williamson’s State of the District  
Location: River Club, 1 Independent Drive, Suite 3400

## CASE LAW UPDATE

Submitted By: Bradley M. Saxton & C. Andrew Roy, Winderweedle, Haines, Ward & Woodman, P.A.

### Eleventh Circuit Cases

***Title Max v. Northington (In re Northington)***

876 F.3d 1302 (11th Cir. 2017)

The Eleventh Circuit held that, despite a confirmed Chapter 13 Plan to which the secured creditor (a lender with a lien on the debtor's vehicle pursuant to Georgia's "title loan" statute) never objected, the vehicle dropped out of the estate once the debtor's redemption period under state law expired. The dissent stated that the case should have been easily decided based upon the finality of the confirmation order.

***Mantiplay v. Horne (In re Horne)***

876 F.3d 1076 (11th Cir. 2017)

The Eleventh Circuit held that the debtor was entitled to recover attorneys' fees incurred in upholding a judgment for a violation of the automatic stay, concluding that § 362(k) authorizes the recovery, including the fees incurred in obtaining damages for the stay violation and for defending the award on multiple appeals of the issue.

### Bankruptcy Court Cases

***Shek v. Massachusetts Department of Revenue (In re Shek)***

2017 WL 6759401, Case No. 6:15-bk-8569-KSJ (Bankr. M.D. Fla. Dec. 21, 2017) (Jennemann, J.)

The Court denied cross motions for summary judgment in adversary proceeding dealing with the non-dischargeability of tax liability where state returns were filed late. The Court rejected the tax authority's position that tax returns filed after the deadline are automatically excepted from discharge. The Court analyzed the "hanging paragraph" from BAPCPA, the Eleventh Circuit's ruling in Justice, and other precedent, applying the Beard test. The Court concluded that to apply the "one day late" rule defies common sense and the long-standing Beard test and so the Court must inquire into whether the debtor made an "honest and reasonable" attempt to satisfy the tax law.

***In re Cheatham***

2017 WL 5614910, Case No. 9:17-bk-01169-FMD (Bankr. M.D. Fla. Nov. 20, 2017) (Delano, J.)

The Court held that a debtor in a Chapter 13 case, where the trustee or an unsecured creditor objects, must either submit all disposable income to the plan or pay unsecured claims in full with interest.

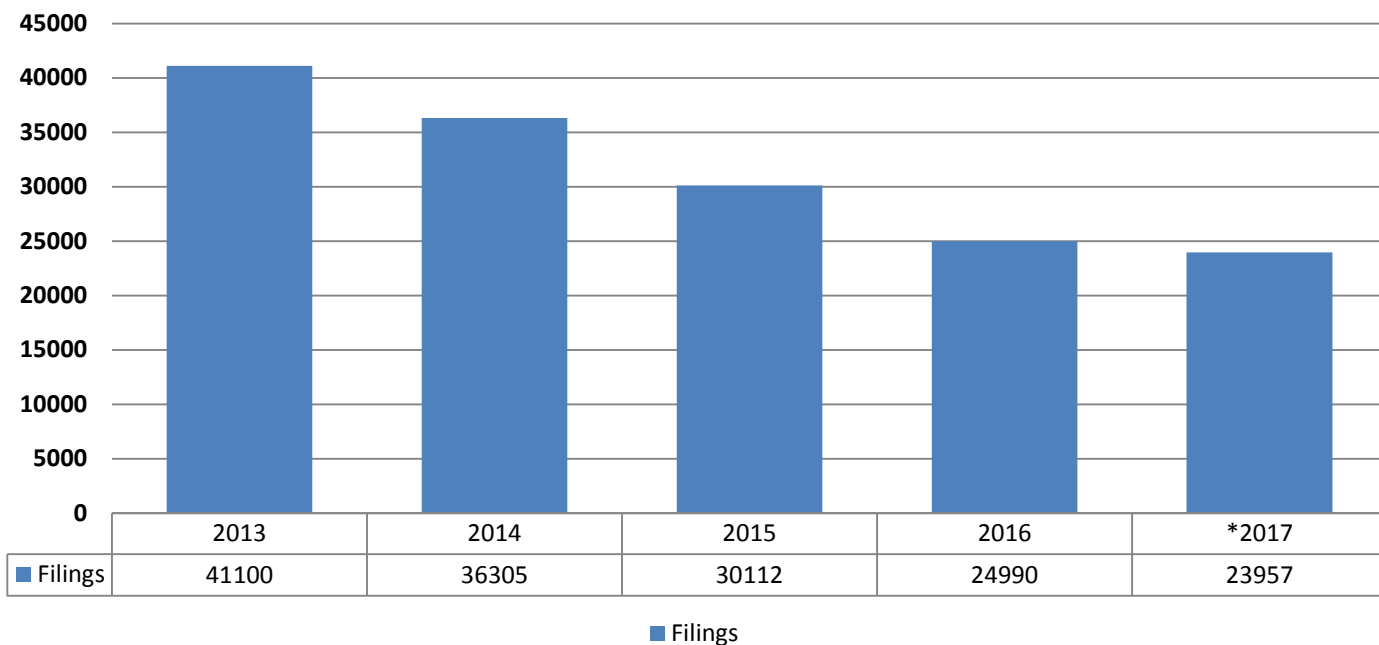
***Feshbach v. United States Department of Treasury (In re Feshbach)***

576 B.R. 660 (Bankr. M.D. Fla. 2017) (McEwen, J.)

In an opinion which provides for interesting reading regarding the debtors' lavish lifestyle over a decade in which they amassed a large tax liability, the Court concluded that the debtors willfully attempted to evade their tax liability for 2001 within the meaning of § 523(a)(1)(c) and found the debt to be nondischargeable.

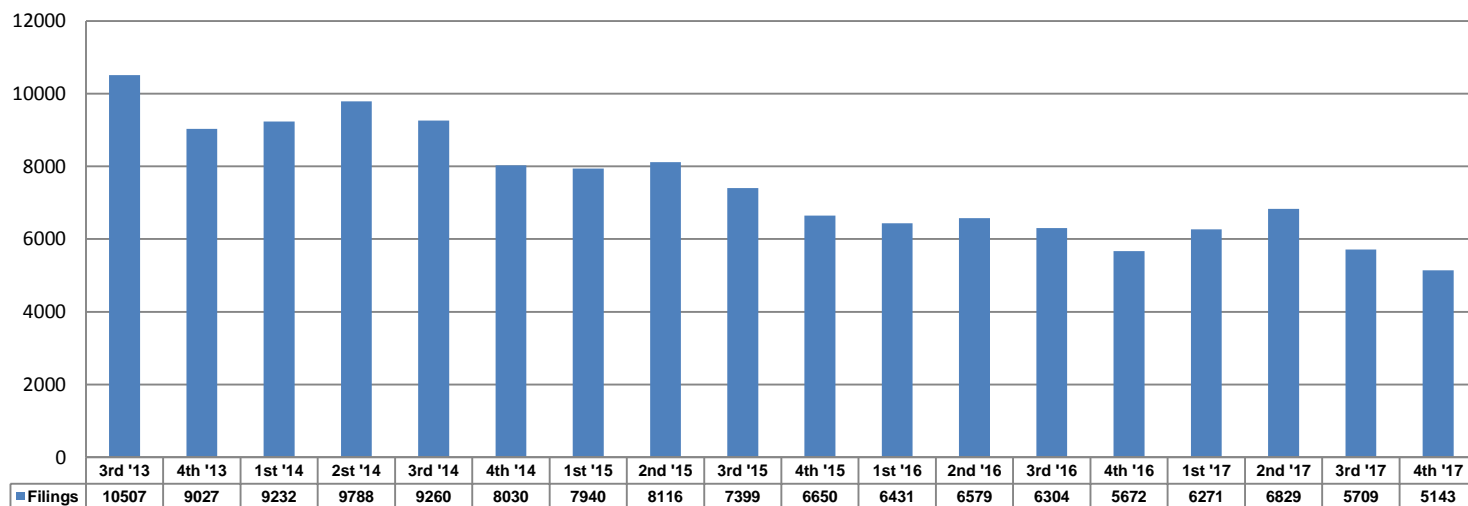
**United States Bankruptcy Court - Middle District of Florida**  
**Updated January 25, 2018 Meeting Data and Information**  
**Statistics as of December 31, 2017**

## Annual Filings

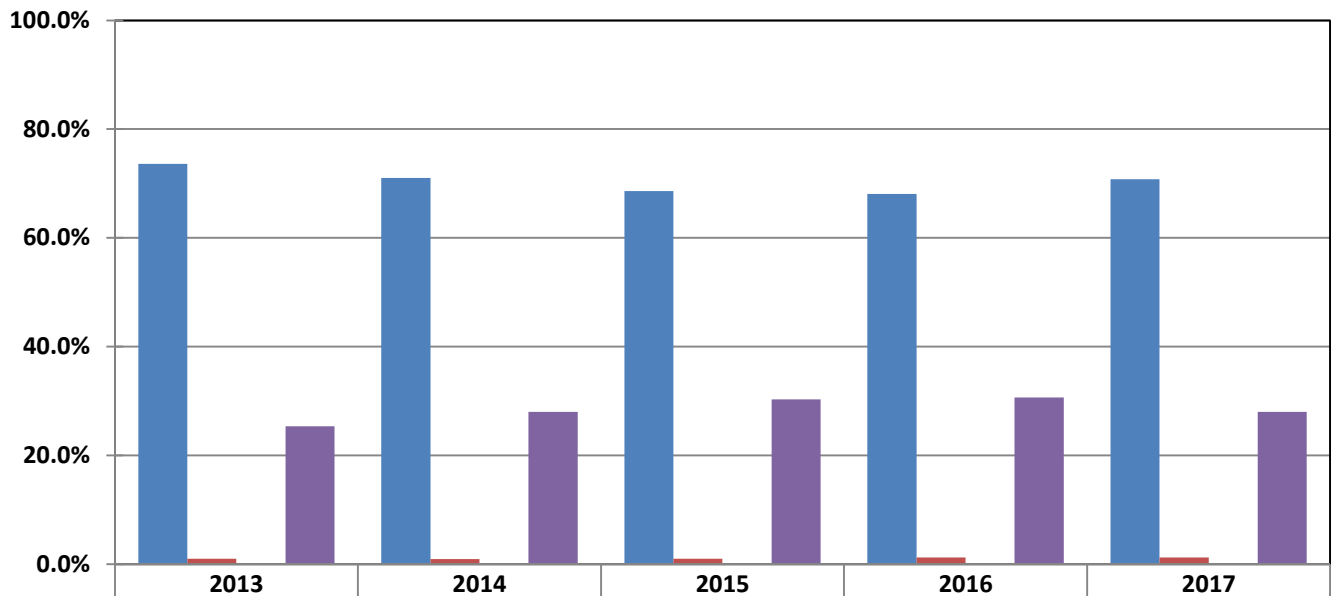


Year	Annual Filings	vs. 2013	vs. Prior Yr.
2013	41100		
2014	36305	-12%	-12%
2015	30112	-27%	-17%
2016	24990	-39%	-17%
*2017	23957	-42%	-4%

## Filings by Quarter

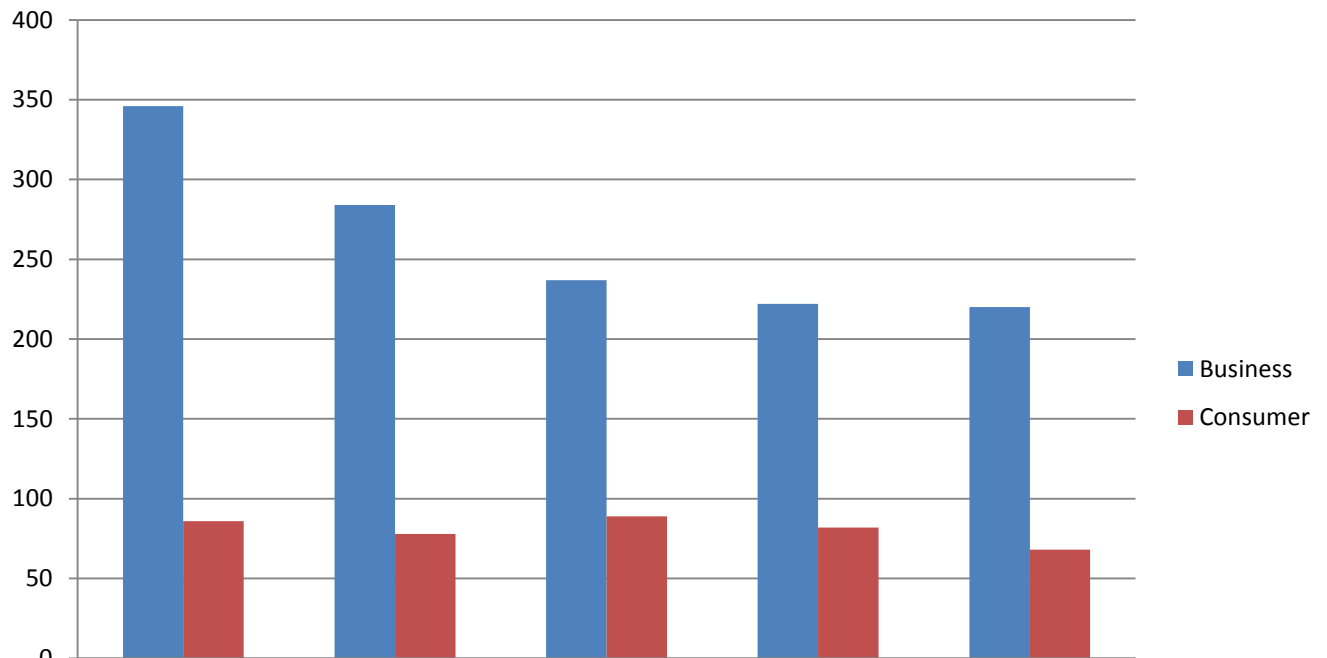


## Filings by % of Chapter Type



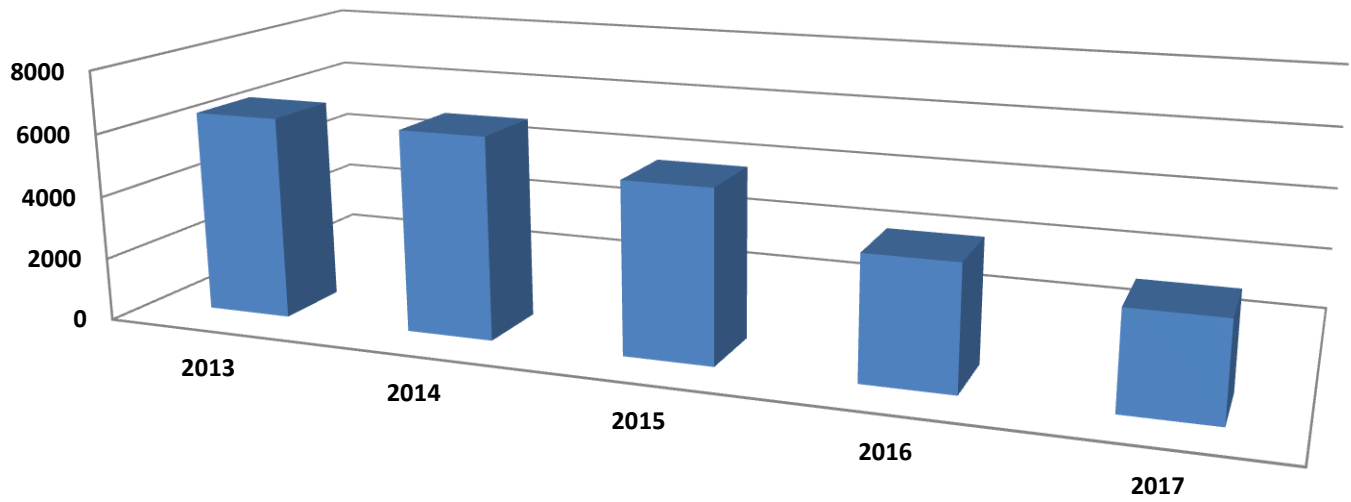
Chapter 7	73.6%	71.0%	68.6%	68.1%	70.8%
Chapter 11	1.0%	0.9%	1.0%	1.2%	1.2%
Chapter 12	0.0%	0.0%	0.1%	0.0%	0.0%
Chapter 13	25.4%	28.0%	30.3%	30.7%	28.0%

## Chapter 11 Filings



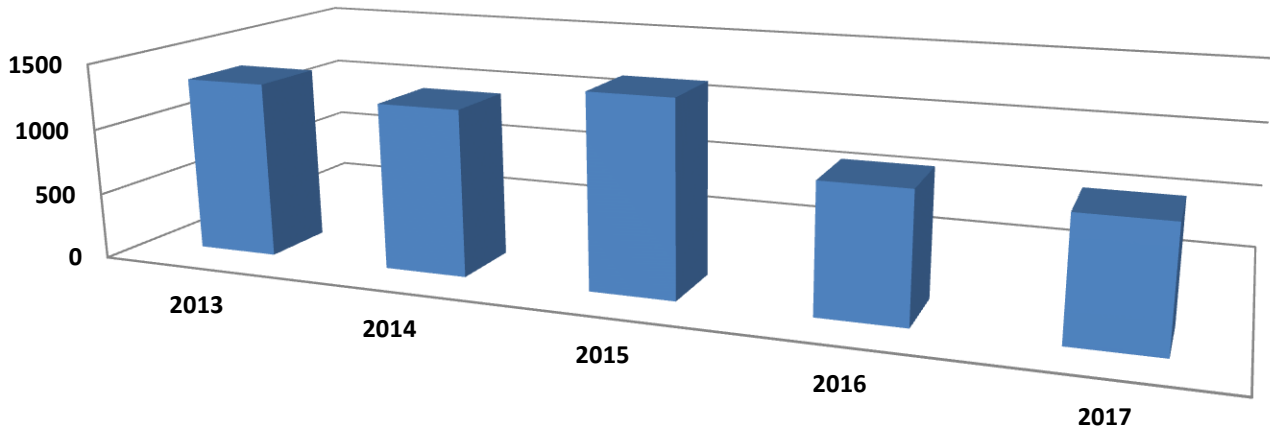
Business	346	284	237	222	220
Consumer	86	78	89	82	68

## Pro Se Filings



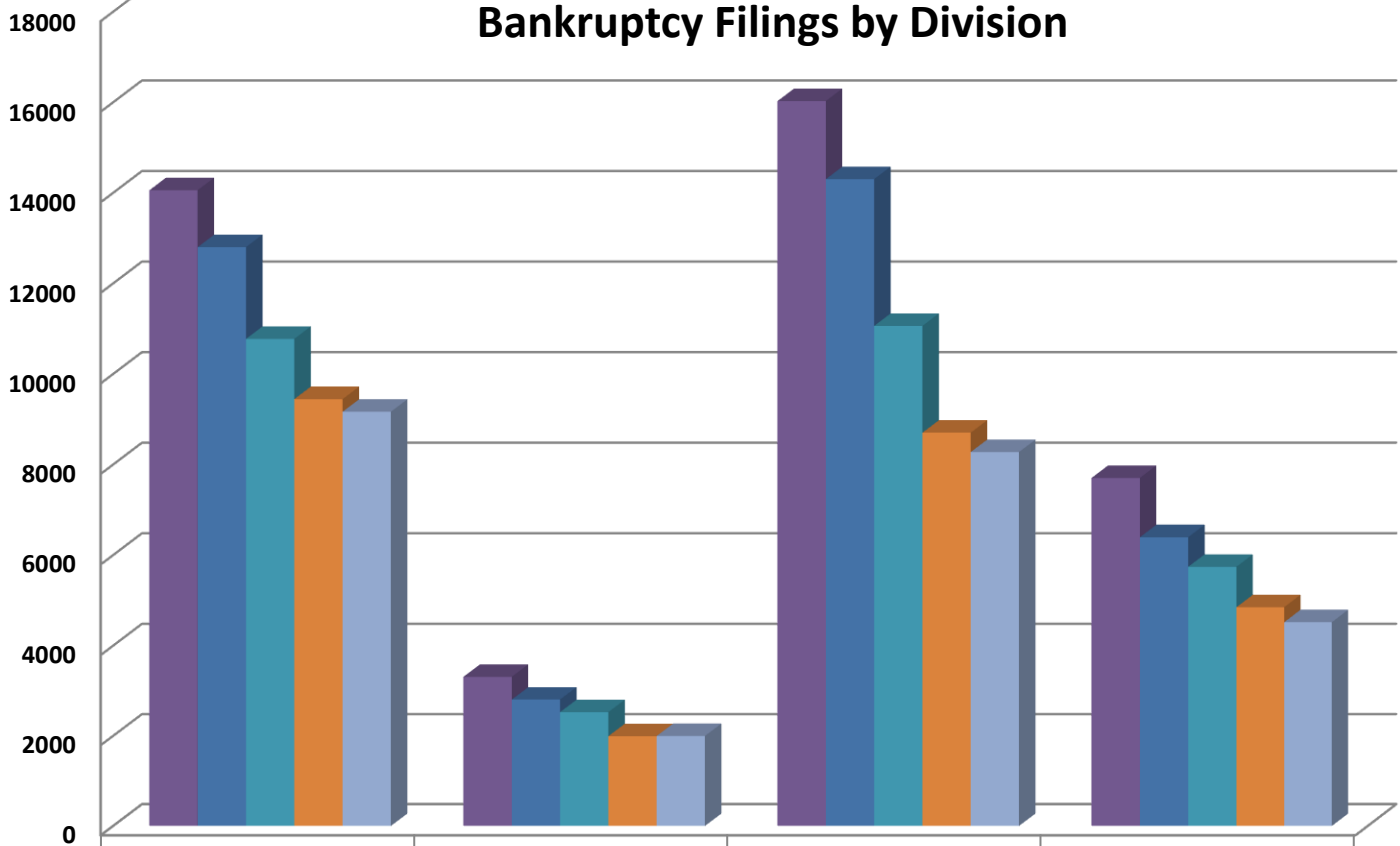
	2013	2014	2015	2016	2017
Pro Se	6435	6387	5416	3902	3079
% of All Filings	16%	18%	18%	16%	13%

## In Forma Pauperis Filings



	2013	2014	2015	2016	2017
IFP Granted	1334	1256	1456	965	903
% of All Filings	3%	3%	5%	4%	4%

## Bankruptcy Filings by Division



Note: \*2017 Counts include reopen cases.

Order Granting IFP counts have been corrected to include approving language.