



Light at the End of the Tunnel?
By: Hon. Caryl E. Delano, Chief Judge

I recently looked back at my column in the April 2020 issue of the Court Connection, which I wrote when we were deep in the “shut down” phase of the pandemic. Looking back, I was really quite naïve about how long we would be living—and working—under restricted conditions. I really thought that businesses and the Court would reopen by May or June and that perhaps a wave of COVID-19 cases in the fall would result in another shutdown.

A year later, most of us are still affected by the pandemic, and many of us have family members or friends who have been ill or who have passed away due to COVID-19. If you have lost a family member or friend this year—whether due to COVID-19 or other causes—you have my heartfelt sympathy. Many of the attorneys who practice in our Court, and their staffs, have suffered financially, in part, because of decline in bankruptcy filings. With vaccines now available for all age groups, let’s hope that we have turned the corner and life will be back to “normal” soon. Our judges have all been vaccinated and we hope you have (or soon will be) too.

My April 2020 column ended with these remarks from Chief District Judge Timothy Corrigan about the pandemic:

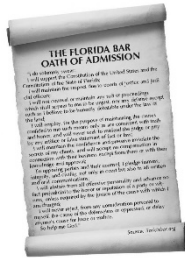
This is a time for the professionalism, civility, and collegiality of the bar to shine through. Disagreements over scheduling or other minor matters seem especially unimportant at the moment. We are all in this together. Let them say at the end of this that both the bench and bar performed in the highest traditions of our profession.

While we are not quite at “the end of this,” with rare exception, I believe that our bench and bar have performed during this past year in the highest traditions of our profession.

Court Connection
Volume No. 10 -- Issue No. 2
April 2021

We have all learned that it is possible to work remotely and that the Court can effectively conduct many hearings and trials by telephone or video. I have heard mediators report that, in some ways, they actually prefer conducting mediations by video. Our shared experiences over the past year have reminded me of the saying “out of crisis, comes opportunity.” As we slowly resume our normal lives, one of our challenges will be to incorporate the lessons we have learned during the pandemic into our post-pandemic home and work lives.

On another note, the one thing in life that remains constant is that things are always changing. Here at the Court we are anticipating some significant changes in the next year, with the November 2021 and February 2022 retirements of Judge Funk and Judge Jennemann, the appointment of their successors, and the appointment of a judge to fill our Orlando “temporary” judgeship. Late 2021 and 2022 promise busy times ahead for our Court and we look forward to celebrating these milestone events with many of you!



Orlando Division Judges Swearing in the Courtroom

By: Matthew McCaleb, Law Clerk to Hon. Lori V. Vaughan

Over the last few weeks, the judges in the Orlando Division have been doing quite a bit of swearing in their courtrooms...swearing-in of new attorneys, that is.



On April 15, 2021, Judge Vaughan administered the Oath of Admission to The Florida Bar to Kateryna Vykhodets, who graduated number two in her class from Barry University School of Law. During her time in law school, Kateryna was a Senior Editor of the Barry Law Review, a Research Assistant to Professor Linda Coco, a member of the Bankruptcy Pro Se Clinic, and a legal clerk for Tejes Law. Kateryna intends to stay in Orlando to practice bankruptcy law and has recently begun working as an attorney for Tejes Law.



Court Connection
Volume No. 10 -- Issue No. 2
April 2021

On April 14, 2021, Judge Jennemann administered the oath to Kristin Suarez, who graduated from Barry University School of Law with an Honors Certificate in Environmental Law. While in law school, Kristin was involved in the Environmental Law Society, a member of the Environmental and Earth Law Clinic, and a legal intern for Darylaine Hernandez, LLC. Kristin intends to move to Tallahassee, where she will be working as an attorney with the Florida Department of Health. Kristin is the daughter of Miriam Suarez, a long-standing attorney with the U.S. Trustee's office.

Everyone in the Orlando Division is excited to welcome these two outstanding attorneys into the legal profession, and we look forward to seeing the great things they will accomplish in the years to come.



MDFL Bankruptcy Law Clerks

JUDGE FUNK

Tony Constantini
Jodie Hollingsworth

JUDGE JENNEMANN

Catherine Choe
Chelsea Moore

JUDGE WILLIAMSON

Ed Comey

JUDGE McEWEN

Lisa Scotten

JUDGE DELANO

Cindy Turner

JUDGE JACKSON

Kristyn Leedekerken

JUDGE COLTON

Griffin Butler
Tim Fox

JUDGE VAUGHAN

Jeanne Kraft Herdeker
Matthew McCaleb



FLMB Welcomes Judge Jennemann's New Law Clerks



Chelsea Moore

I recently began working as one of Judge Jennemann's new law clerks. I grew up in Miami, attended UF for undergrad, and returned to Miami to attend the FIU College of Law. During law school, I was on the FIU Law Review, interned with a judge on the United States District Court for the Southern District of Florida, and worked as a research assistant for two professors.

After graduating, I clerked for the Honorable Vance E. Salter of the Third District Court of Appeal. Most recently, I was a career clerk for the Honorable Peter T. Fay of the United States Court of Appeals for the Eleventh Circuit. When I am not working, I am often crocheting or going to the theme parks with my fiancé. I am excited for the opportunity to work for a new court and for Judge Jennemann.



Catherine Choe

Hello everyone, I recently began my position as one of Judge Jennemann's law clerks. I attended the University of Florida and graduated from Emory University School of Law in May 2019. After graduating law school, I worked in first-party insurance litigation at Butler Weihmuller Katz Craig LLP, in Tampa, Florida. In my personal time, I like to binge a good television show and spend time with my friends and family. I look forward to meeting everyone once things return to normal post COVID.



April 30th Deadline to Comment on Amendments to Local Rules

The judges of the United States Bankruptcy Court for the Middle District of Florida are considering proposed amendments to the Local Rules. The proposed amendments were posted for public comment beginning March 15, 2021. The public comment period ends on April 30, 2021. When promulgated by the judges, the amended and new Local Rules will become effective on July 1, 2021.

Attorneys and parties who appear before the Court are encouraged to review the proposed amendments. The Court appreciates all comments and will consider them before promulgating the new and amended Local Rules.

Click [here](#) to review the proposed new and amended rules.

Click [here](#) to provide comments regarding the proposed amendments.



Paula Turner Luce Retires After 29 Years of Service
By: Hon. Caryl E. Delano, Chief Judge



One of our Court's longest-serving employees, Paula Turner Luce, retired on February 28, 2021, after 29 years of service.

From 1992 until 2012, Paula worked in the Tampa Division. Paula started and ended her service in Tampa as the Secretary/Administrative Assistant to Deputy-in-Charge, Chuck Kilcoyne. But over the years, Paula wore many hats, including Asset Closing Clerk/Administrative Analyst; Administrative Assistant to the Clerk of Court; and Judicial Assistant to Judge Paul M. Glenn. She was often the Court's liaison with the District Court, General Services Administration, the U.S. Marshals Service, and the Tampa Bay Bankruptcy Bar Association. For many years, she helped organize the holiday drive to benefit the residents of Hanna Oaks Assisted Living Center.

Paula is a woman of many talents and was always the go-to person for anything that needed to be done, whether it was ordering furniture and supplies for the Court, coordinating investitures and other court events, or making sure the printer in the Tampa Attorney's Conference Room was supplied with paper. Paula approached any task, no matter how small, with grace and enthusiasm.

Court Connection
Volume No. 10 -- Issue No. 2
April 2021

In 2012, I assumed the role of presiding judge in our Fort Myers Division, taking over after two years of visiting judges, and Paula took on two new roles as the Fort Myers Courtroom Services Clerk for both the Bankruptcy Court and the District Court. Always a “people person,” Paula quickly got to know the Fort Myers attorneys and assisted the Southwest Florida Bankruptcy Professionals Association in setting up its monthly meetings in the District Court’s jury assembly room, as well as its Annual Dinners. Although I traveled to Fort Myers only once each month (this was pre-pandemic), Paula, an inveterate garage sale shopper, made sure my chambers were filled with knickknacks and family photographs; she was in court with me at every hearing. I will miss working with Paula so much!

Paula looks forward to spending more time with her extended family, especially her daughter and son-in-law, Alexandra and Kurt, and her two adorable grandsons, three-year-old Nolan and four-month-old Kameron. I know you all will join me in wishing Paula many years of health and happiness in this exciting new chapter of her life!

Pictured above: Paula (second from right) at the 2018 Southwest Florida Bankruptcy Professionals Association Annual Paskay Dinner in Fort Myers, along with (l to r): Dana Robbins, Lisa Mills, Judge Delano, Laura Stevenson, and Kathy Deetz.



UNITED STATES TRUSTEE'S CORNER
By: Jill Kelso, Orlando Office of the U.S. Trustee

NOTICE OF NEW CHAPTER 11 QUARTERLY FEE SCHEDULE

The chapter 11 quarterly fee schedule established by 28 U.S.C. § 1930(a)(6) was changed by the Bankruptcy Administration Improvement Act of 2020 (the Act), Pub. L. No. 116-325, which was enacted on January 12, 2021. The Act makes the new schedule effective on the first day of the first quarter after its enactment date, which is April 1, 2021.

Here are the disbursement ranges and quarterly fees under the new quarterly fee schedule for the calendar quarters beginning April 1, 2021 through December 31, 2025:

<u>Quarterly Disbursement Range</u>	<u>Quarterly Fee</u>
\$0 to \$62,624	\$250
\$62,625 to \$999,999	0.4% of quarterly disbursements
\$1,000,000 to \$31,249,937	0.8% of quarterly disbursements
\$31,249,938 or more	\$250,000

The new chapter 11 quarterly fee schedule is available on the United States Trustee Program's website at <https://www.justice.gov/ust/chapter-11-quarterly-fees>. All other quarterly fee related procedures remain unchanged. The fee is due on the last day of the calendar month following the calendar quarter for which the fee is owed. Under 31 U.S.C. § 3717, interest will be charged on unpaid quarterly fees.

If disbursement information and reports are not current when the quarterly fee billing runs, an estimated minimum quarterly fee may appear on billing statements. After the missing disbursement information and reports are provided, the estimated fees will be adjusted.

Court Connection
Volume No. 10 -- Issue No. 2
April 2021

Chapter 11 quarterly fees may be paid online, click [HERE](#) to pay fees or by mailing the tear-off portion of the billing statement and a check, made payable to “United States Trustee,” to the following address:

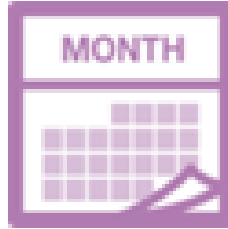
United States Trustee Payment Center
P.O. Box 6200-19
Portland, OR 97228-6200

Please address any questions to your local Office of the United States Trustee.



Clerk's Offices to Reopen on May 3, 2021
By: Sheryl Loesch, Clerk of Court

The Clerk's Offices in our staffed divisions (Jacksonville, Orlando, and Tampa) will reopen to the public on May 3, 2021. Those offices, however, will operate with minimal staffing; most of our staff will continue to telework from home. To the extent possible, attorneys should continue to communicate with the Clerk's Office and judges' chambers staff by telephone and email. Pro se parties may continue to file papers with the Court by mail, fax, email, and drop box.



Upcoming Bar Events

May 11
12:00 pm TBBBA Webinar: *Between Three Bankruptcy Attorneys: An Interview with Some Practitioners*. Join us for an interview-style discussion between Larry Foyle, Chip Morse, and Lynn Sherman, with Kathleen DiSanto as moderator, as they share their experiences clerking, early years of practice, being mentored and mentoring, and how the practice has changed over the last few decades from telex to Teams.

May 20
12:00 pm CFBLA Webinar: *Subchapter V – Small Business Reorganization: Practice Pointers and Strategies*. Featuring Jason W. Johnson, Amy Harris, Jason A. Burgess, and L. Todd Budgen, and moderated by Daniel A. Velasquez.

Other Events of Note:

September 9 – Investiture of Hon. Lori V. Vaughan, Tampa

October 28 – View from the Bench, Tampa

November 2 – Luncheon in honor of Hon. Jerry A. Funk, Jacksonville



Jacksonville Bankruptcy Bar Association
By: Katheryn Hancock, Esq., President

On February 10, 2021, we hosted a free virtual CLE on *Debtors' Bad Faith Insurance Claims*. Thank you to panelists Dale Swope, Stephanie Miles, and Brent Steinberg.

The JBBA team is currently in 5th place in the Young Lawyers Division Health and Wellness Olympics.

We expect to hold our annual seminar in August, September, or October. It will be a live seminar with a virtual option. More details to come!

We will be holding Judge Funk's retirement luncheon at The River Club on November 2, 2021.



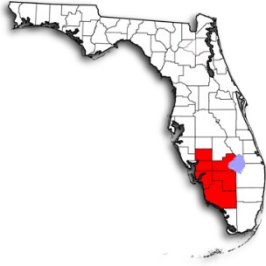
Central Florida Bankruptcy Law Association, Inc.
First Quarter News 2021
By Andrew V. Layden, Esq., President

CLE Webinars: CFBLA is continuing its monthly CLE programs by videoconference – so you can attend remotely from anywhere! So far in 2021, we’ve already hosted three great CLEs by videoconference:

- *Debtor’s Insurance Bad Faith Claims: The overlooked asset that may be worth millions! (January 2021)*
- *D&O Liability Litigation, Cutting Edge Strategies & Insight (March 2021)*
- *Getting to Know your Judge with the Hon. Lori V. Vaughan (April 15, 2021)*
- ***Upcoming: Subchapter V – Small Business Reorganization: Practice Pointers and Strategies (May 20, 2021)***

And we have more planned throughout the year! If you miss one of the CLEs, keep in mind that many of our past CLEs are available for viewing from the library on our website.

Website: Every week, we are adding more information to our new website: www.cfbla.org. Recently added information includes a new Membership Directory and easy access to past CLE webinars for viewing.



**SOUTHWEST FLORIDA BANKRUPTCY
PROFESSIONALS ASSOCIATION**
By: Michael Cecil, Esq., President

There are a number of plans in the works for SWFBPA members in the next couple months:

- With Paula Luce's help, Greg Champeau and Jon Tolentino are organizing a golf tournament (date and time still pending).
- A brown bag lunch featuring Trustee Jon Waage will be held on Chapter 13 issues, hopefully in May.
- The SWFBPA will be taking part in some upcoming public service events (TBD).
- And we are in the process of trying to get someone from the IRS to do a Zoom webinar on completing tax returns correctly and avoiding postpetition tax liability issues.



CASE LAW UPDATE FOR Q2 2021 **ISSUE OF THE COURT CONNECTION**

Editors:

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

Eleventh Circuit Cases

Suvicmon Development, Inc. v. Morrison

991 F. 3d 1213 (11th Cir. Mar. 25, 2021)

Prepetition, creditors sued the debtor for common law fraud and securities law violations. Their complaint also included fraudulent transfer claims against the debtor and his sons. A jury rendered a verdict in favor of the creditors on their common law fraud and securities law violation claims. The state court then entered judgment against the debtor on the fraud and securities law claims but dismissed the fraudulent transfer claims. After the debtor filed for bankruptcy, the state court judgment was found to be nondischargeable under § 523(a)(19), which excepts from the discharge debts for violating securities laws. During the case, the trustee filed a no-asset report, thus abandoning the fraudulent transfer claims. The creditors sought to continue pursuing the fraudulent transfer claims. The Eleventh Circuit, in an opinion authored by Judge Tjoflat, held that the discharge barred the continued pursuit of the fraudulent transfer claims: “[T]he fact that the underlying claim is non-dischargeable does not compel the conclusion that the fraudulent transfer claim is non-dischargeable.”

Bankruptcy Court Cases

In re Greater Blessed Assurance Apostolic Temple, Inc.

Case No. 6:20-bk-00148-KSJ (Bankr. M.D. Fla. Mar. 23, 2021) (Jennemann, J.)

The bankruptcy court held that because a Chapter 11 debtor’s attorney was not disinterested and failed to disclose that he was a creditor of the debtor, the

debtor had no obligation to pay the fees incurred by the attorney. Since other non-debtor individuals may have been obligated to pay fees incurred, though, the court went on to determine the reasonableness of the fees and costs incurred. Ultimately, the court concluded that only \$35,000 of the asserted \$92,050 in fees were reasonable.

In re Rojas de Bauer

625 B.R. 211 (Bankr. M.D. Fla. Mar. 8, 2021) (Jennemann, J.)

The bankruptcy court held that a Chapter 13 debtor who is not a U.S. Citizen was not entitled to the Florida homestead exemption. While a few courts have allowed non-citizens to claim the homestead exemption when a family member who was either a U.S. citizen or had lawful permanent residence was living in the home, none of the debtor's family members living in the home in this case were U.S. citizens or could claim lawful permanent residence. Therefore, the court concluded that the debtor could not subjectively formulate an intent to live in the home forever. Although the court sustained the trustee's objection to the homestead exemption, it urged the trustee to administer the home in a way that may avoid foreclosure.

Feldy Boys, LLC v. Polasky (In re Polasky)

2021 WL 614032, 2021 Bankr. LEXIS 362 (Bankr. M.D. Fla. Feb. 17, 2021) (Delano, C.J.)

In an interesting opinion in which the court discussed, in some detail, the legal differences between exceptions to discharge under § 523(a)(2)(A) and § 523(a)(2)(B), as well as the different "reliance" requirements under those two subsections, the court carefully construed the evidence and held that the plaintiff failed to meet its burden to establish that the debt was nondischargeable.

Roberts v. McGrory (In re McGrory)

625 B.R. 783 (Bankr. M.D. Fla. Feb. 3, 2021) (Vaughan, J.)

The bankruptcy court dismissed a one-count complaint that sought to impose an equitable lien on the debtor's homestead. After spending some time discussing the legal requirements for imposing an equitable lien on homestead property under the *Havoco* decision (and specifically the meaning of "invest in, purchase, or improve" the homestead), the court found that when a complaint fails to allege a fraudulent transfer and how the transferred funds ended up in

Court Connection
Volume No. 10 -- Issue No. 2
April 2021

the homestead, the lack of any tracing is fatal to the cause of action. Therefore, the complaint was dismissed.

In re Musto

2021 WL 99343, 2021 Bankr. LEXIS 58 (Bankr. M.D. Fla. Jan. 6, 2021) (Colton, J.)

The bankruptcy court awarded sanctions against a law firm for violating the discharge injunction, where the law firm had nine communications with the debtor seeking to collect a discharged debt, all of which were made after receiving notice of the bankruptcy case and notice of entry of the discharge. Although the law firm stopped collection efforts after the debtor's attorney sent a cease-and-desist letter, the firm did not offer to pay sanctions for its discharge injunction violations. The court awarded the debtor \$10,570.00, which represented \$450.00 in sanctions (\$50.00 for each of the nine improper communications) and \$10,120.00 in attorneys' fees and costs.



Make Me Smile About Your Orders (and Your Professionalism and Competence)

By: Hon. Catherine Peek McEwen

The look and content of your proposed orders are a reflection of your professionalism and even your competence. Ten tips on how you can polish up that reflection:

1. Proof your orders carefully, including the title and proper punctuation (e.g., no commas before a dependent clause, please); do not delegate that last look to a paralegal.
2. Don't know whether it's an order granting or sustaining or approving (or their opposites) your request for relief? Check the Court's Style Guide! It's available here (and includes sample order formatting): [Style Guide | U.S. Bankruptcy Court Middle District of Florida \(uscourts.gov\)](#).
3. If our Court has an approved form of order, use it (and don't embellish it)! Check the Court's Procedure Manual for our approved forms of order. It's available here: [Procedure Manual Guide \(uscourts.gov\)](#).
4. Want to get an agreed order entered? Check out Local Rule 9072-1(d) for the five permissible methods. (You can't simply recite in the order that the parties agree—or title it an agreed order—because how in the world would I know that? I shouldn't have to confirm that with opposing counsel.)
5. Speaking of agreed orders, if you include the parties' verification at the end of the order to signify consent, the signatures may not be electronic (“/s”); you must file a scanned signature page that contains the necessary signatures or use the signature block and attestation by the submitting attorney that includes the declaration set out in Local Rule 1001-2(g)(3).

Court Connection
Volume No. 10 – Issue No. 2
April 2021

6. Want to get an amended order entered? Check out Local Rule 9072-1(e) for that how-to.
7. If the proposed order resolves a dispute that is currently set for hearing, be sure to include in the order: “The hearing set for [fill in the date and time] is canceled.”
8. For chapter 13 cases filed on or after August 1, 2020, or that are being administered using the most recent version of our Model Chapter 13 Plan: When preparing an order that confirms termination of the automatic stay based on the debtor’s failure to provide treatment for the movant in the debtor’s chapter 13 plan (e.g., secured creditor’s collateral being surrendered or debtor paying the creditor outside the plan), do not include a decretal paragraph that requires the debtor to move to reimpose the stay if the plan is modified to treat the movant. Per Administrative Order Prescribing Procedures for Chapter 13 Cases Filed on or After August 1, 2020, Admin. Order FLMB 2020-7, such motion is no longer necessary.
9. Do not include in the proposed order rulings that the Court never made. That is a credibility killer.
10. If a paralegal drafts your proposed orders, please hand this column to the paralegal and make sure he or she reads it—and agrees to make you handle the final proofing.

Now I’m smiling!

CLE

In Case You Missed It....



CLE program recordings are available on the Court's website.

Click [here](#) to access.

You will need your CM/ECF login to view the videos.

Featured Programs:

Chief Judge Delano's March 5, 2021 State of the District Presentation

and

Judge McEwen's March 18, 2021 Program:
How to Avoid the "Madness" in a Chapter 11 Case



A Message From Your Point & Click Authors.

Dear Point and Click, the District Court for the Middle District of Florida recently upgraded to the Next Generation (NextGen) of CM/ECF. I have some questions about how this affects my filing access for the Bankruptcy Court for the Middle District of Florida.

Question #1: How do I link my existing Bankruptcy Court filing account to my new upgraded PACER account?

Answer #1: Although District Court recently migrated to NextGen, the Bankruptcy has not yet made the transition. So your upgraded login will not allow you access to file in this Court. You should continue using your existing Bankruptcy Court CM/ECF login to file in this Court.

Question #2: Should I upgrade my account if I do not actively file in District Court?

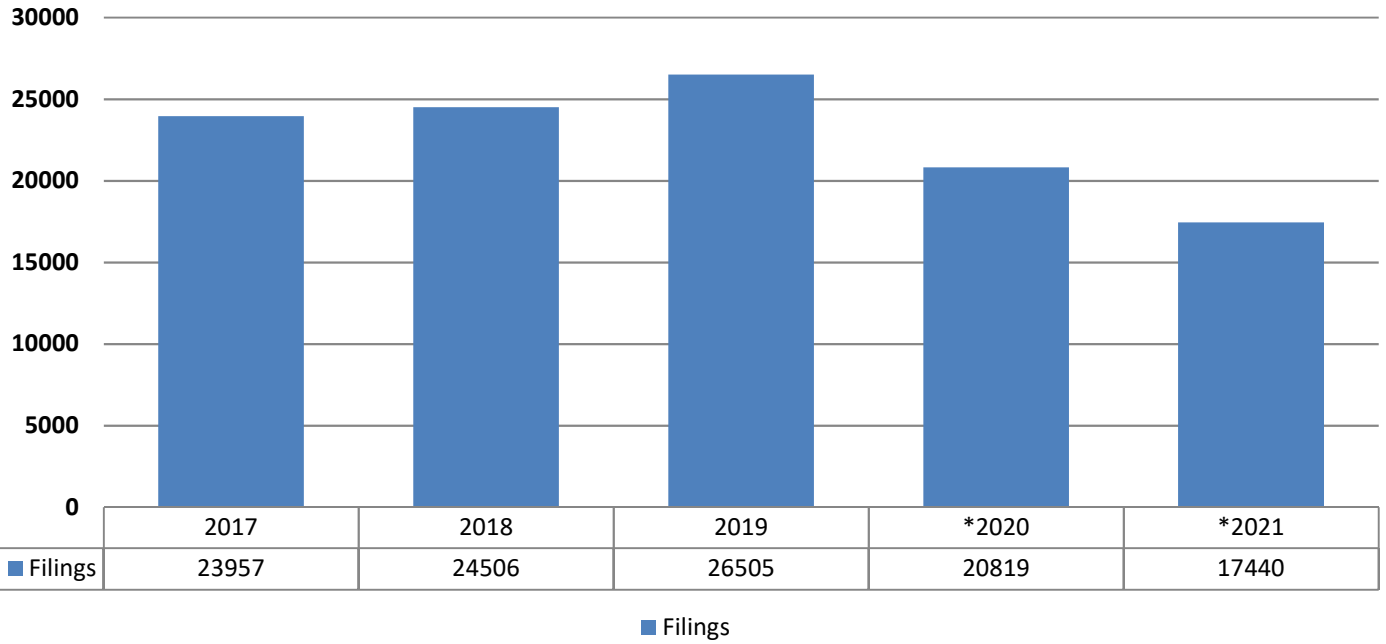
Answer #2: If you have not yet upgraded your PACER account, there is no reason not to. Upgrading your account will not impact your ability to access the Bankruptcy Court's CM/ECF System, and it will bring you one step closer to completing the upgrade process when the Court does migrate to NextGen.

Question #3: When will the Bankruptcy Court transition to NextGen?

Answer #3: As we move closer to transitioning, information about the transition, including our transition date and what you will need to do to upgrade your account, will be provided to you.

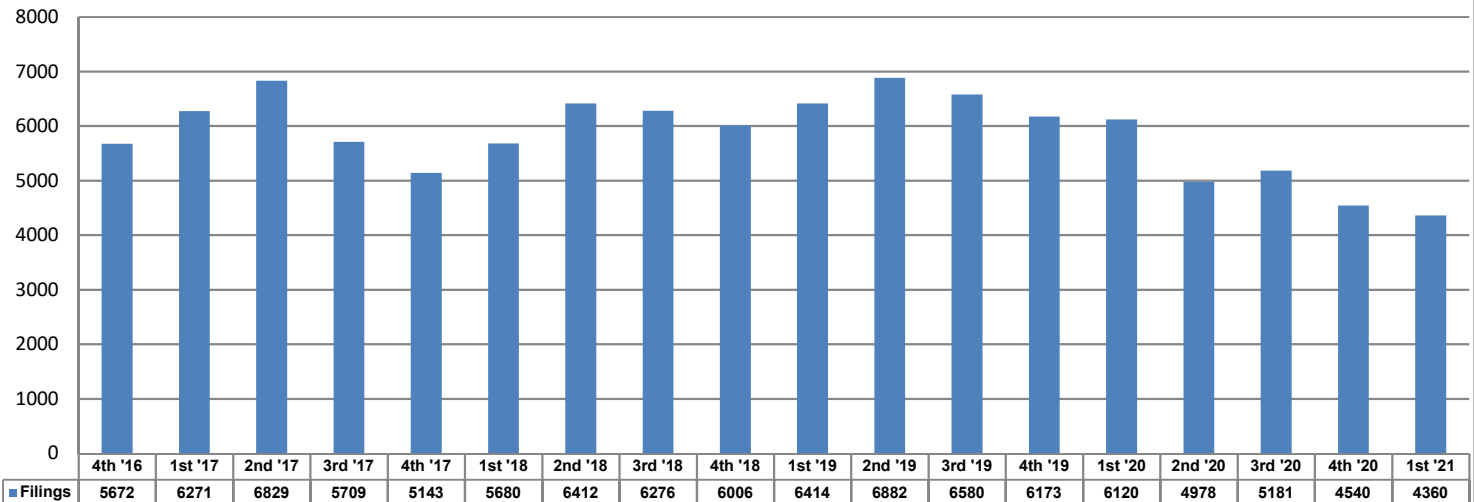
United States Bankruptcy Court - Middle District of Florida
Updated April 26, 2021 Meeting Data and Information
Statistics as of March 31,2021

Annual Filings

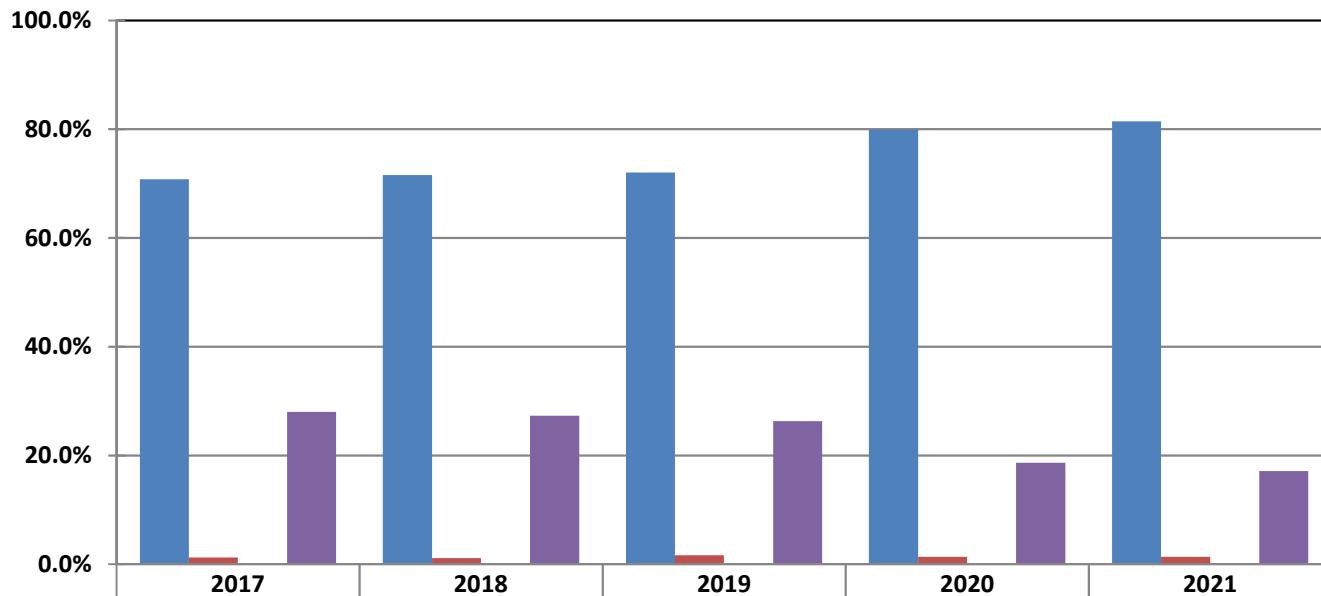


Year	Annual Filings	vs. 2016	vs. Prior Yr.
2016	24990		
2017	23957	-4%	-4%
2019	26505	6%	11%
*2020	20819	-17%	-21%
*2021	17440	-30%	-16%

Filings by Quarter

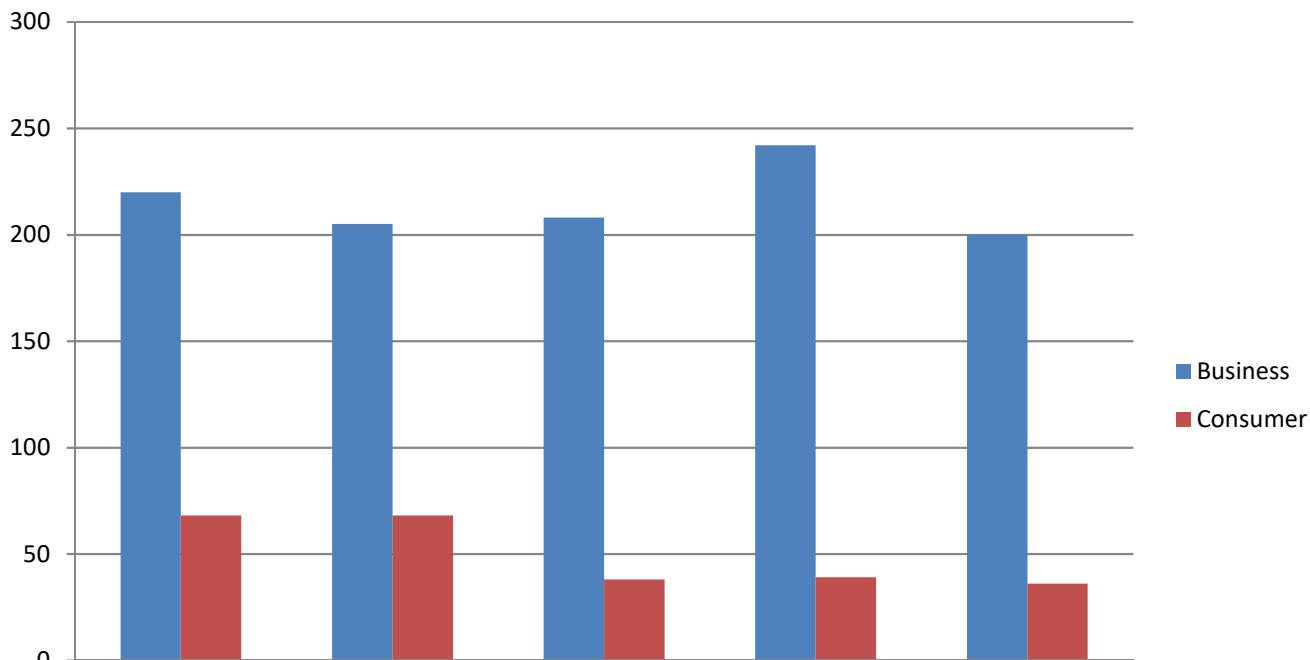


Filings by % of Chapter Type



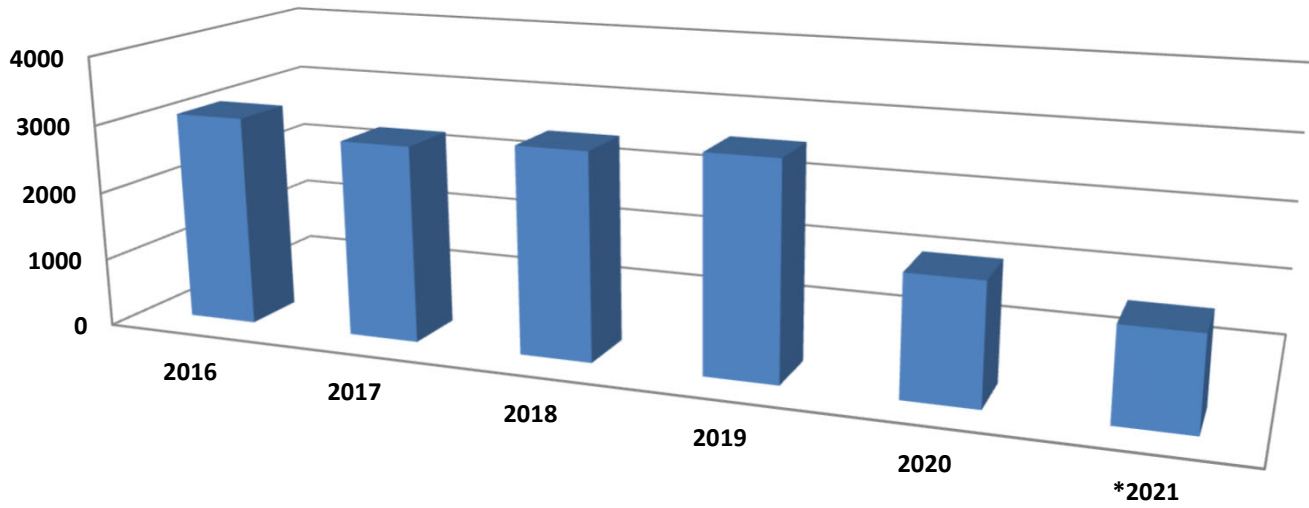
	2017	2018	2019	2020	2021
Chapter 7	70.8%	71.6%	72.0%	79.9%	81.5%
Chapter 11	1.2%	1.1%	1.7%	1.4%	1.4%
Chapter 12	0.0%	0.0%	0.0%	0.0%	0.0%
Chapter 13	28.0%	27.3%	26.3%	18.7%	17.1%

Chapter 11 Filings



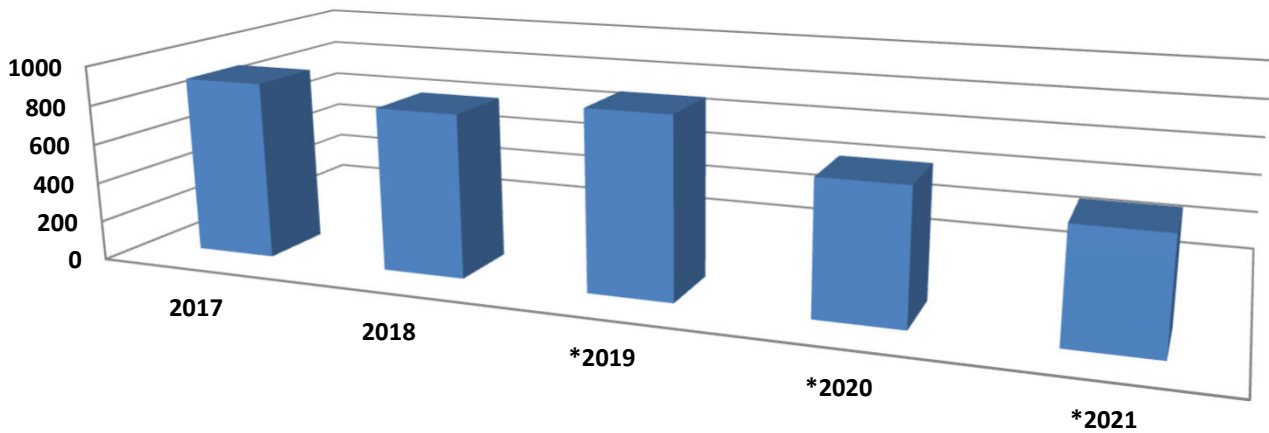
	2017	2018	2019	**2020	*2021
Business	220	205	208	242	200
Consumer	68	68	38	39	36

Pro Se Filings



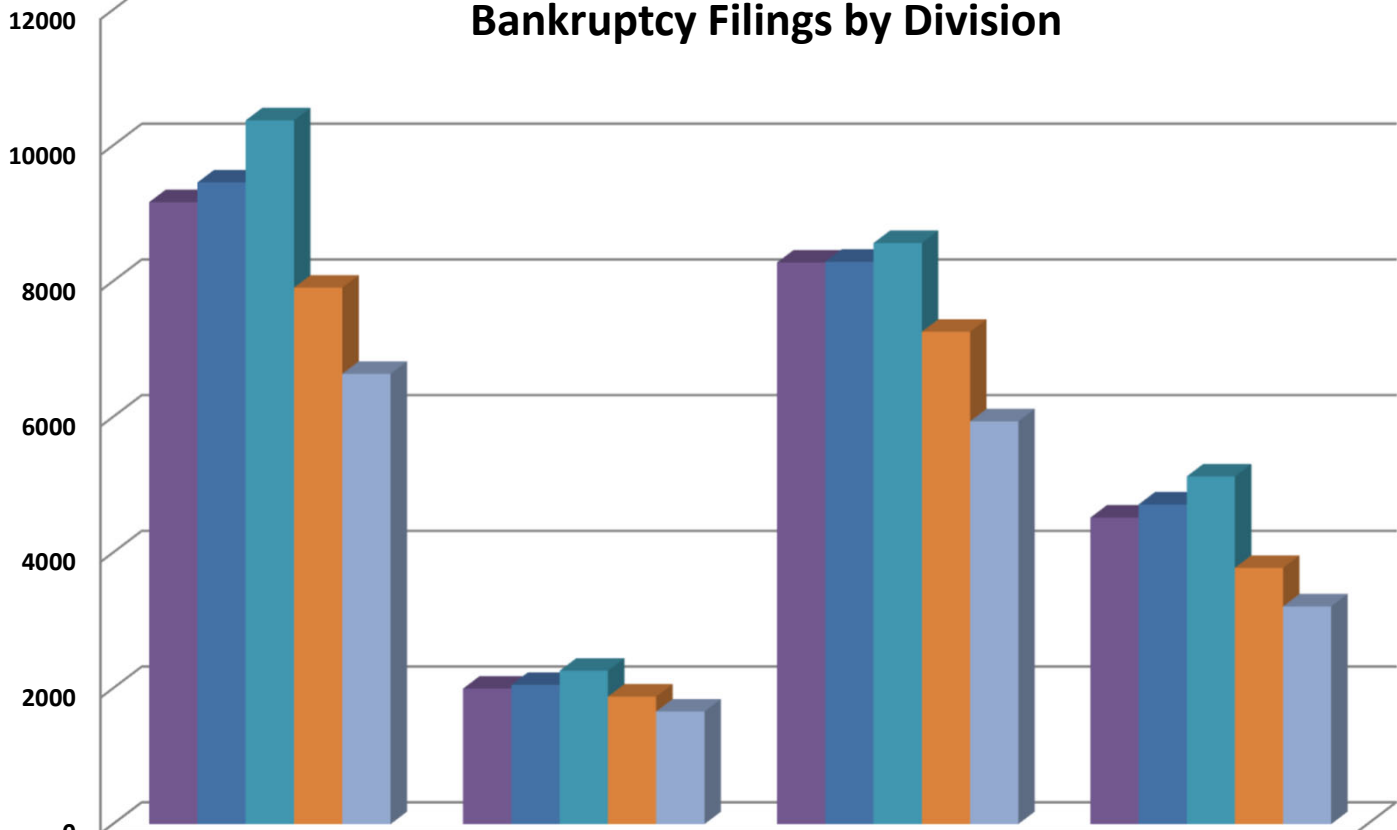
	2016	2017	2018	2019	2020	*2021
■ Pro Se	3079	2868	3006	3116	1742	1344
% of All Filings	12.85%	11.70%	11.34%	11.76%	8.37%	7.71%

In Forma Pauperis Filings



	2017	2018	*2019	*2020	*2021
■ IFP Granted	903	825	903	668	560
% of All Filings	3.8%	3.4%	3.4%	3.2%	3.2%

Bankruptcy Filings by Division



	Tampa	Ft. Myers	Orlando	Jacksonville
2017	9166	1997	8276	4518
2018	9456	2052	8288	4711
2019	10372	2260	8564	5124
2020	7906	1880	7256	3777
*2021	6636	1660	5936	3208

Note: *2020 Counts include reopen cases.
 Order Granting IFP counts have been corrected to include approving language.