

**ANNUAL REPORT
OF THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF DELAWARE
TO THE
FEDERAL BAR ASSOCIATION
2016**

THIS REPORT WAS PRODUCED BY THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
J. CALEB BOGGS FEDERAL BUILDING
844 NORTH KING STREET
WILMINGTON, DELAWARE 19801

TABLE OF CONTENTS

| | |
|--|---------|
| Introduction. | Page 2 |
| District Judges. | Page 4 |
| Bankruptcy Judges. | Page 5 |
| Clerk’s Office. | Page 6 |
| Civil & Criminal Filings. | Page 7 |
| Civil Case Filings. | Page 8 |
| Patent Case Filings. | Page 10 |
| Juror Services. | Page 12 |
| Naturalization. | Page 13 |
| U.S. Bankruptcy Court. | Page 14 |
| Bankruptcy Court Case Statistics. | Page 15 |
| Community Outreach. | Page 17 |
| Delaware Chapter of the Federal Bar Association. | Page 18 |

Statistics for this report are compiled from:

Office of Judges Programs, Statistics Division, Administrative Office of the United States Courts. *1971 - 2015 (inclusive) Annual Report of the Director: Judicial Business of the United States Courts*. Washington, D.C.: U.S. Government Printing Office, 1971 - 2016.

Office of Judges Programs, Statistics Division, Administrative Office of the United States Courts. *1971 - 2015 (inclusive) Federal Court Management Statistics*. Washington, D.C.: U.S. Government Printing Office, 1971 - 2016.

Photographs by:

Eric Crossan and John Simpkins

INTRODUCTION



The year since the last annual report has been a busy and productive one for the District of Delaware. I'll try here to briefly describe some of the reasons I say that.

Foremost in my mind is that we held our second, successful Bench and Bar Conference. Over the course of two days in May, we hosted more than 400 attorneys and judges from across the country. We heard panel discussions on topics of importance and interest to all federal practitioners, with a focus on intellectual property, bankruptcy, and criminal law. We also had some fun. I particularly enjoyed drinking several different local beers and "tasting" local wines, while eating delicious local food at the "Taste of the Brandywine" dinner.

With the support of our Planning Committee, the Court has decided to continue the tradition of the Bench and Bar Conference, but to make it a biennial event. We look forward to seeing you in 2018!

Second, with the assistance of our Lawyers Advisory Committee, we revised our Local Civil Rules for the first time since 2010. We adopted needed amendments relating to involvement of Delaware counsel in meet and confers as well as procedures relating to members of our bar who have been disciplined by other bars to which they belong. I have asked the Advisory Committee to continue working on the rules, including by examining whether to integrate the many standing orders the Court has issued over the years.

This past year we also revamped the operation of our Civil Justice Act panel, with the aim of improving the Court's ability to request pro bono representation from the bar for *pro se* civil plaintiffs whose cases appear to warrant such assistance. We had several graduations of our Re-entry Court and nearly-monthly Naturalization and attorney admissions ceremonies. Very recently, we also selected a new Chief Probation Officer, Walter Matthews, who will take over for the retiring John Selvaggi in January.

We did all this in addition to handling our caseload, which is, of course, our primary responsibility. Elsewhere in this Report you'll find case filing statistics. They show that we remain a busy court.

The number of new criminal cases has increased significantly in the recent past. We are on pace to have more than 100 new criminal cases filed by the end of the calendar year, for the first time since 2013.

While the number of new civil cases that are filed here has declined each of the past two years, and is projected to decline slightly again this year, what may be more noteworthy is how many cases are still filed here. Extrapolating from the number of new civil cases filed this calendar year through August 31, 2016, we expect approximately 1,143 civil cases to be filed in 2016. Of these, we expect about 414 to be patent cases, of which approximately 103 will be new Abbreviated New Drug Application (“Hatch-Waxman”) cases.

Those numbers translate into two new patent cases per district judge every week, including a new Hatch-Waxman case for each judge every other week. To put that into context, it is anticipated that about 4,500 patent cases will be filed across the country this year. As there are 677 authorized district judgeships, this suggests that the average district judge will be assigned just seven new patent cases during all of 2016.

We have enough work to keep our current judges busy – and also enough to justify having a new, fifth district judgeship created. Making the case for a new judgeship has become more challenging due to the caseload trends, and also due to a decision of the Judicial Conference of the United States to cut the “weighting” given to patent cases by more than 45 percent. But it is still a meritorious position. I anticipate the Judicial Conference will continue to recommend that Congress create a new judgeship for the District of Delaware.

Looking forward I can already see that the next year will be filled with highlights and challenges. Two highlights come immediately to mind. One is that on Monday, November 28, the Federal Bar Association will be hosting a “fireside chat” with former Solicitor General of the United States Ted Olson. Mr. Olson will join us to talk about cases he has litigated in the Supreme Court, as well as the Third Circuit and Federal Circuit, and also to discuss his extraordinary career. Second, 2017 will see the return of the FBA’s Federal Trial Practice Seminar, our unique months-long program to help train the next generation of federal trial litigators.

The biggest challenge we are likely to confront will occur in February 2017, when my colleague, the Honorable Sue L. Robinson, will take senior status. As everyone reading this Report must well know, Judge Robinson is one of the most respected and experienced district judges in the country. After a lengthy career in public service, it would be understandable if Judge Robinson felt ready to retire. I am grateful that Judge Robinson currently intends to stay on senior status for some time. Hopefully, her vacancy will be filled in a timely manner next year.

I continue to thoroughly enjoy my work as a judge and am honored to have the opportunity to serve as Chief Judge of the District of Delaware. I thank my colleagues and the Bar for their continued support.

Leonard P. Stark
Chief Judge

DISTRICT COURT JUDGES



Magistrate Judge Christopher J. Burke, Judge Richard G. Andrews, Judge Sue L. Robinson, Chief Judge Leonard P. Stark, Judge Gregory M. Sleet, Chief Magistrate Judge Mary Pat Thyng, Magistrate Judge Sherry R. Fallon

BANKRUPTCY JUDGES



Seated: Judge Kevin J. Carey, Chief Judge Brendan Linehan Shannon, Judge Mary F. Walrath.

Standing: Judge Kevin Gross, Judge Christopher S. Sontchi, Judge Laurie Selber Silverstein.

CLERK'S OFFICE

The District of Delaware experienced a drop in civil filings for the second time since 2007. In 2015 the Court had an approximate 19 percent decrease in overall case filings. A large part of that decrease was in patent filings which caused us to fall from first to second in the patent caseload per judge category; an event that has not happened since 2007.

Even though the caseload has decreased the Court continues to be extremely busy and in need of assistance. Nationally for 2015, the average Intellectual Property (IP) Caseload, which consists of patent, copyright and trademark cases, was 20.8 cases per judge. In Delaware it was 165 cases per judge. As a percent of total filings, IP cases in 2015 made up 49 percent of the total caseload in Delaware; nationally it was 3.7 percent. For the second year it is over 13 times higher than the national average.



Last year, as the result of two retirements the Intake section lost 40 years of institutional knowledge and experience. Ron Eberhard our long time Intake Supervisor and Betty Strickler our Intake go-to person decided to join the life of leisure. We also saw several other Intake staff move on to further their careers. To fill Ron's rather large shoes, Bob Cruikshank was promoted to Intake Supervisor. Bob has done an extraordinary job of ensuring the work is getting done in the manner and time-frame expected by the Bench and the Bar while training new staff and adjusting to his new position. Through fresh eyes, compliments of our relatively new intake staff, we have implemented new processes and procedures and enhanced many long standing ones. We are always looking to improve our office; new ideas and suggestions are always welcome.

It is a privilege to serve the Bench, the Bar and the Public.

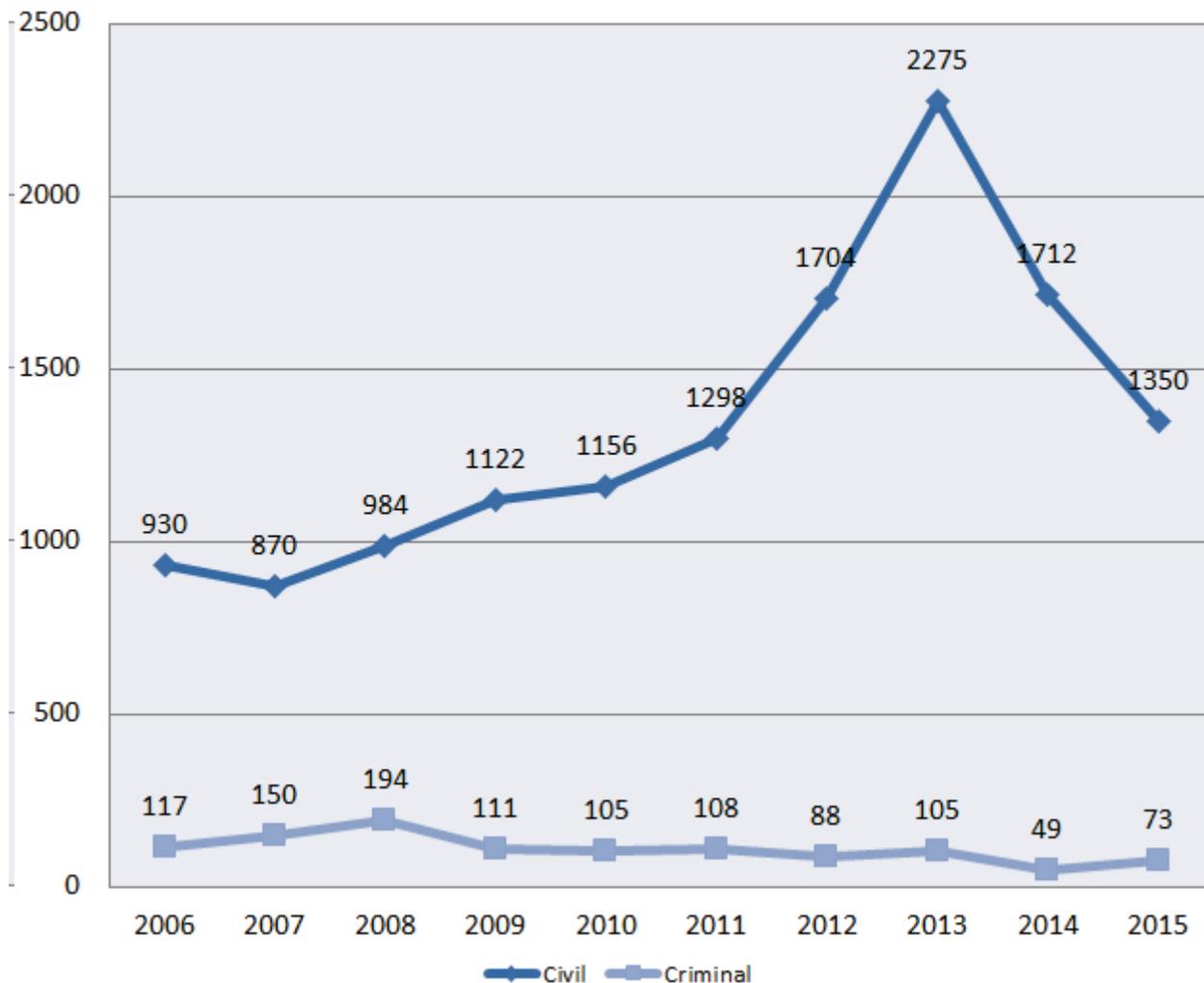
Respectfully submitted,

John A. Cerino
Clerk of Court

CIVIL AND CRIMINAL FILINGS

The following graph shows civil and criminal filing trends from 2006 to 2015. Civil case filings made a significant drop in 2015 for the second time in the past seven years. In 2015, 1,350 civil cases were filed, a 21 percent decrease from the previous year of 1,712 cases filed, which was the first drop in civil case filing in seven years. Criminal case filings increased from 49 in 2014 to 73 in 2015, a 50 percent increase from the previous year.

Civil & Criminal Filings
Calendar Years 2006-2015

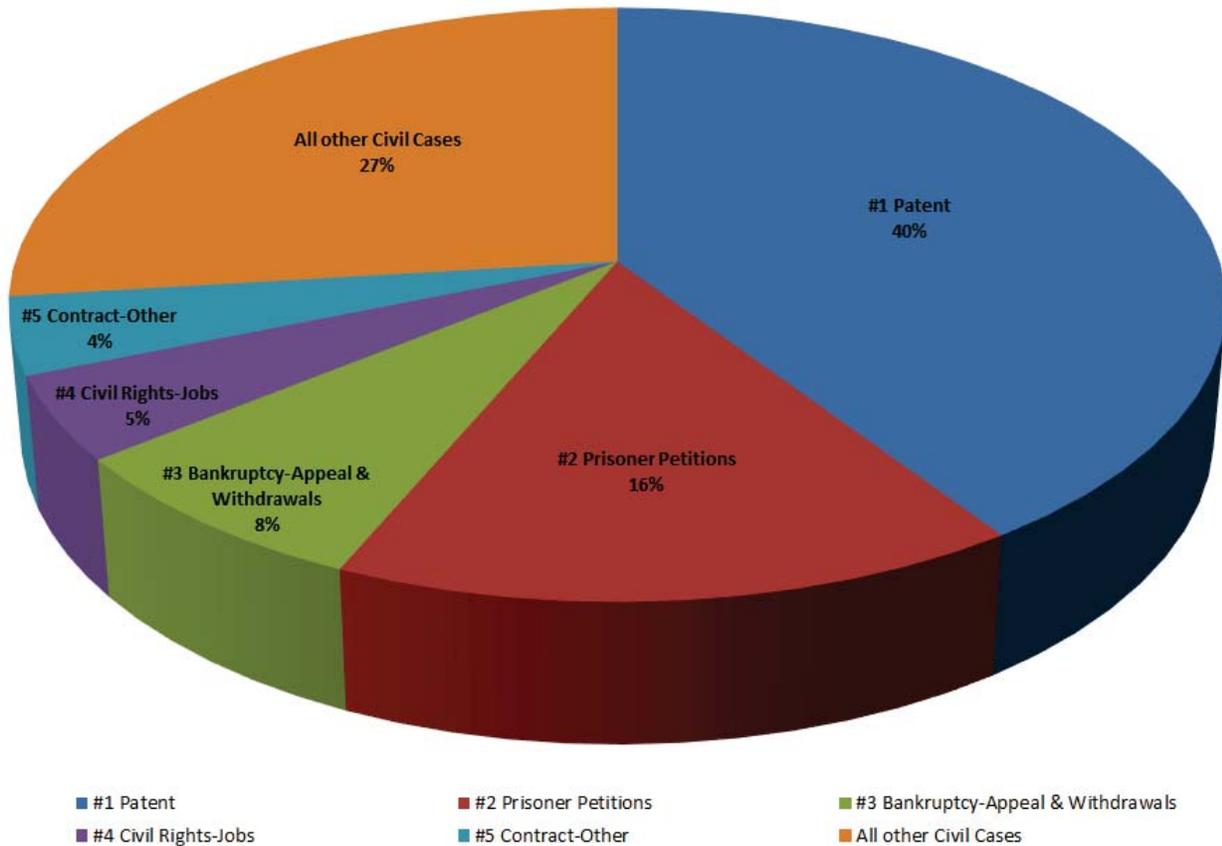


CIVIL CASE FILINGS

The two graphs that follow represent the types of civil cases filed in the District since 2006, characterized by nature of suit. From decade to decade, the six top categories generally remain the same, but the percentage of total civil filings within those categories has changed. The high percentage of patent litigation continues to dominate the Court's caseload.

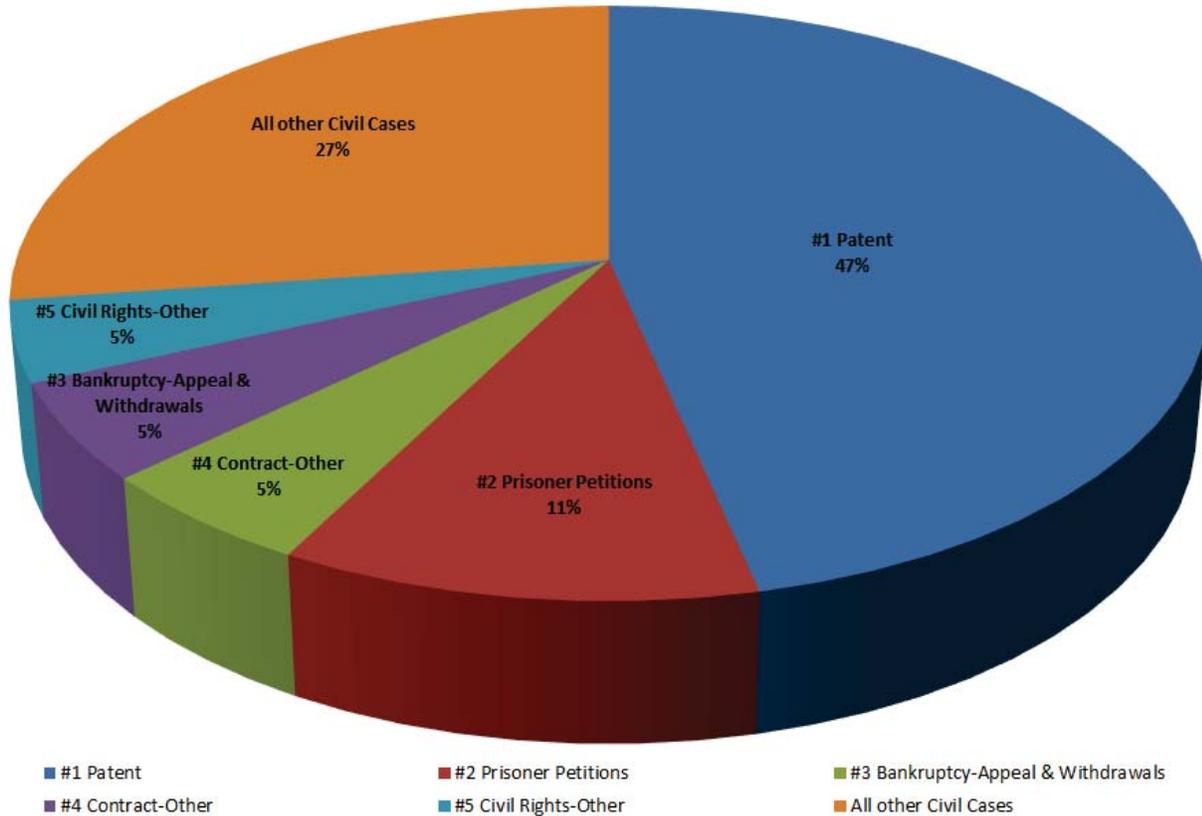
The first graph displays the cumulative caseload average covering the fiscal years from 2006 through 2015. Patent cases account for 40 percent of civil filings, Prisoner Petitions 16 percent, Bankruptcy-Related Cases 8 percent, Civil Rights-Employment 5 percent and Other Contract Cases 4 percent. All Other Civil Cases accounted for 27 percent of the civil filings.

Civil Case Filings by Nature of Suit Fiscal Year 2006-2015



The second graph displays total civil filings for fiscal year 2015 by nature of suit. Patent cases account for 47 percent of civil filings, Prisoner Petitions 11 percent, Bankruptcy-Related Cases 5 percent, Other Contract Cases 5 percent, Civil Rights-Employment 5 percent, and All Other Civil Cases 27 percent.

Civil Case Filings by Nature of Suit Fiscal Year 2015

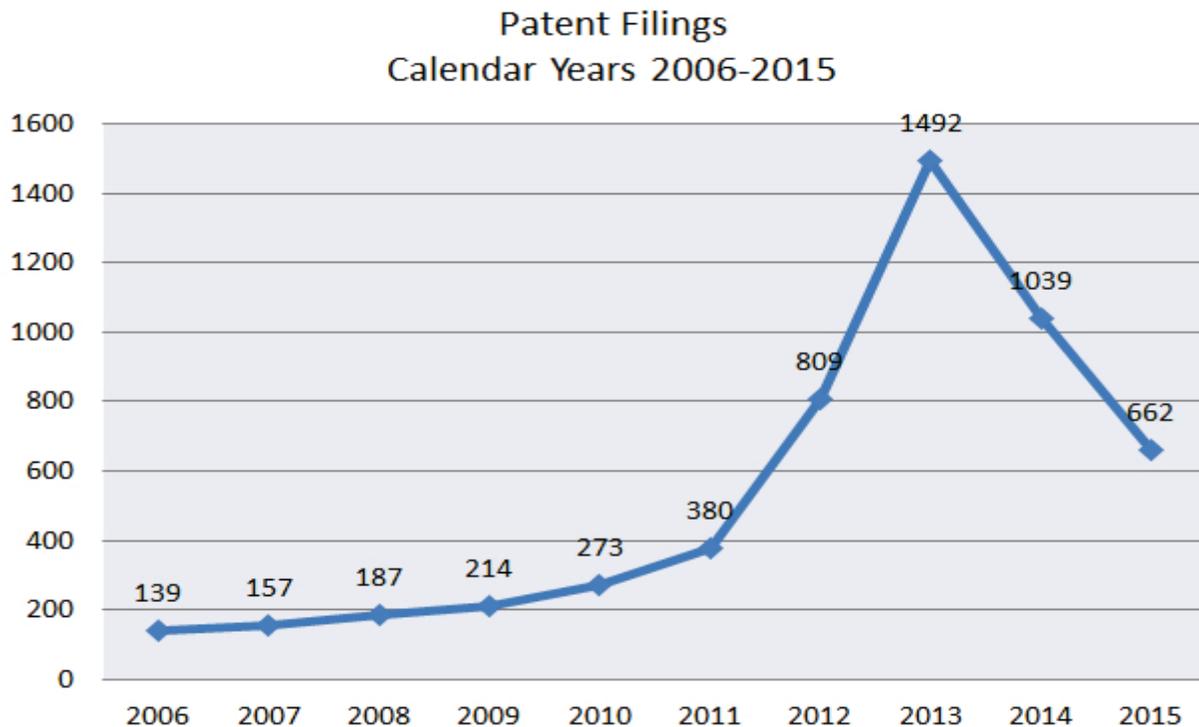


PATENT CASE FILINGS

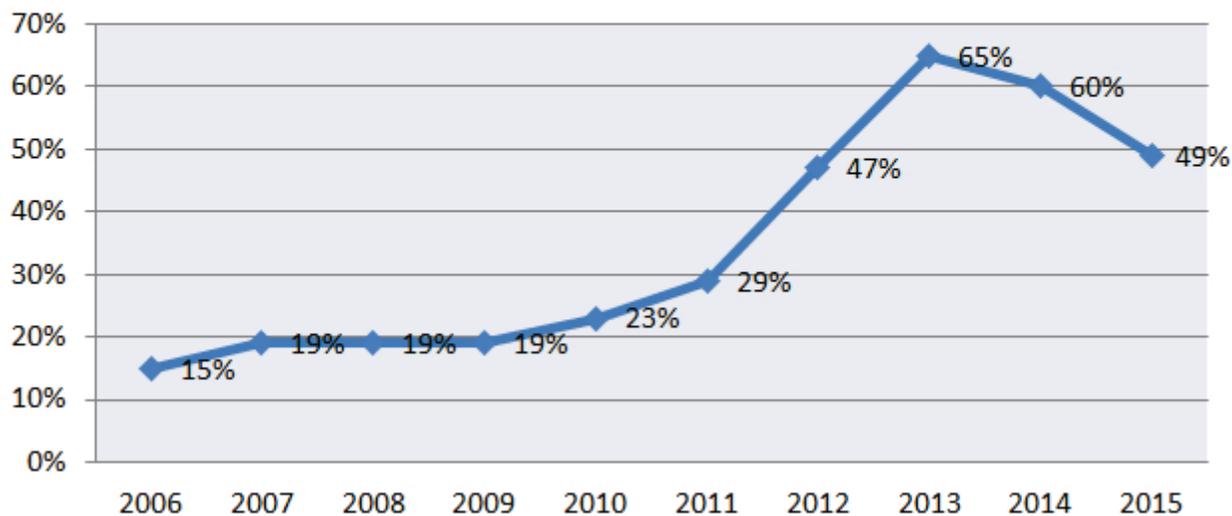
Patent filings continue to be a substantial part of the District Court's caseload. The first graph details the annual number of filings during the period from 2006-2015. In 2015, 662 patent cases were filed, approximately a 36 percent decrease from the previous year of 1039.

The second graph shows the decrease of patent filings as a percentage of total caseload, which dropped 11 percent from 60 percent in 2014 to 49 percent in 2015.

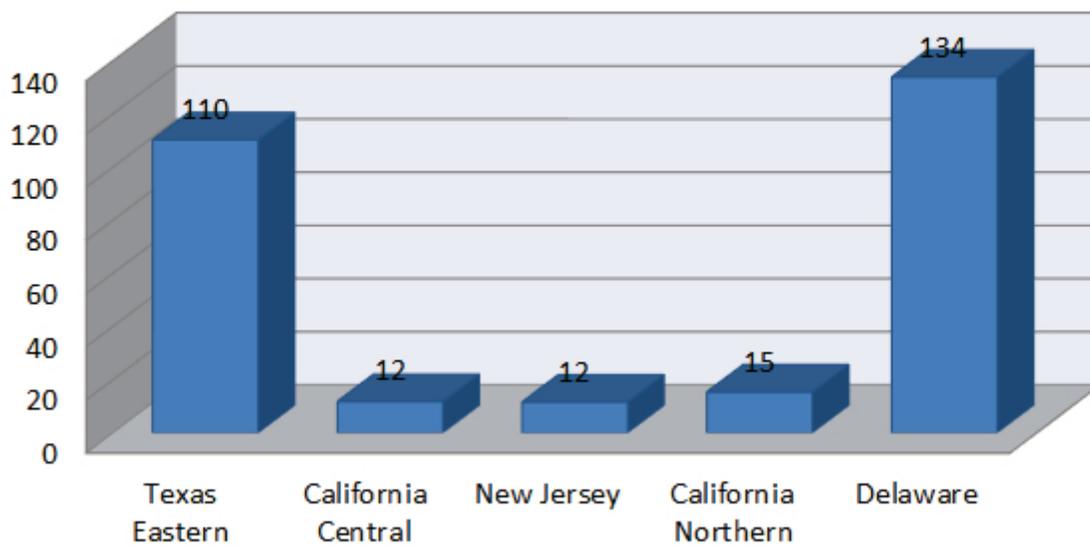
For the past decade, Delaware has ranked in the top six district courts for patent filings in the nation. The third graph displays a cumulative average of patent filings per authorized judgeship from 2006 to 2015. During those years, Delaware averaged 134 patent cases filed per authorized judgeship. For the first time since 2007 Delaware fell to the second position in the number of patent cases filed per authorized judgeship to 165 cases. A 36 percent decrease from the previous year of 260 cases. Even with a drop of 36 percent Delaware continues to be 1075 percent higher than the third fourth and fifth positions nationally.



Patent Filings as a Percentage of Civil Caseload Calendar Years 2006-2015



Average Patent Cases Per Judgeship Calendar Years 2006-2015

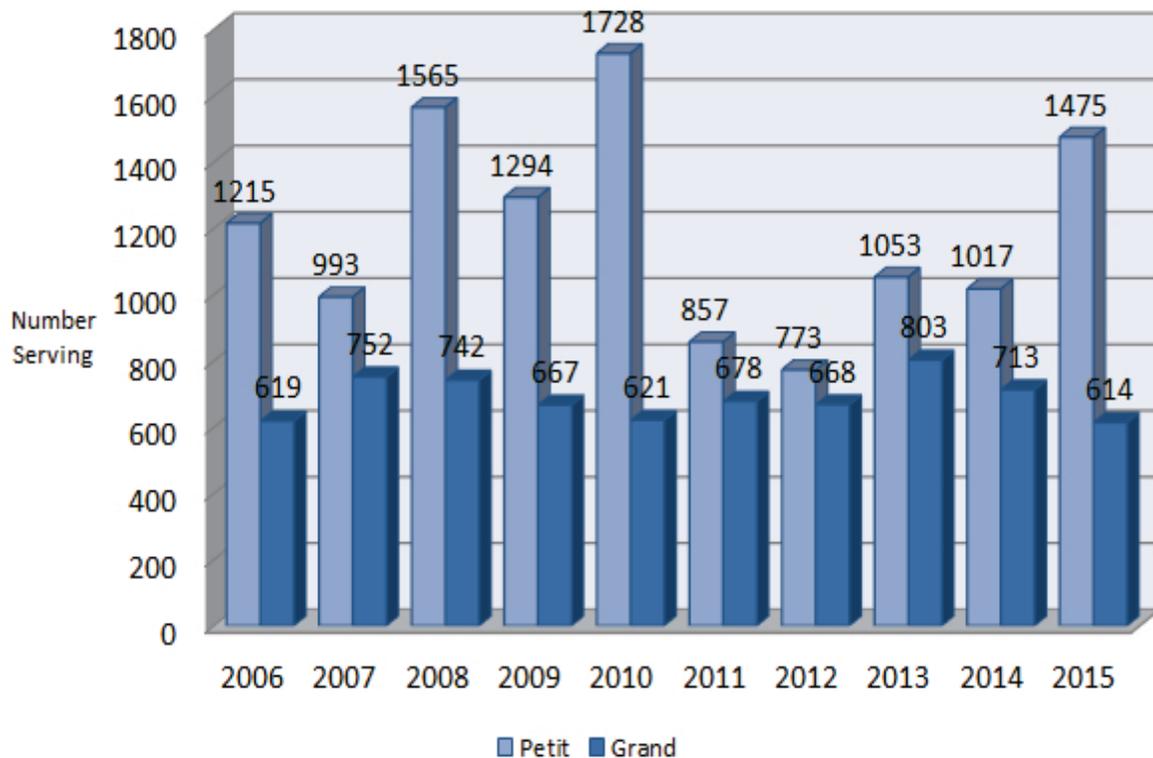


JUROR SERVICES

Summoning citizens for jury duty is an important function of the Clerk’s Office. The number of jurors requested varies due to the nature and length of a trial. The selection of petit and grand jurors is authorized by the revised Jury Plan (Amended 2009), which may be found on the District Court’s website. Prospective jurors are drawn randomly from a merged database of names of all registered voters, licensed drivers and individuals issued a State of Delaware identification card. Information and frequently asked questions about jury service can be found on the Court’s website.

During 2015, the total number of citizens that reported for petit jury duty was 1,475, compared to 2014, when 1017 reported. Service on grand juries decreased slightly in 2015 to 614 citizens reported compared to 2014, when 713 citizens reported for service.

**Citizen Jury Service
Calendar Years 2006-2015**

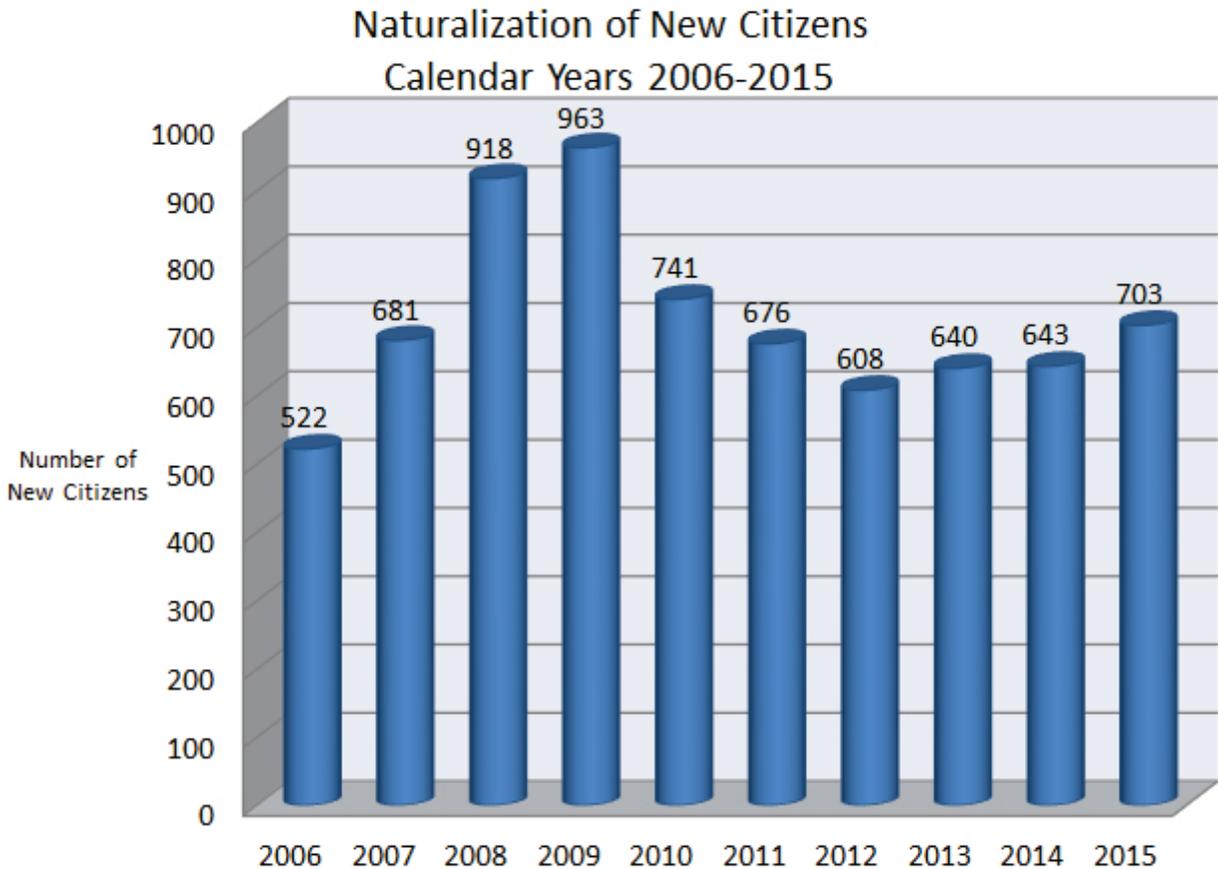


NATURALIZATION

The Judges of the District Court of Delaware view the naturalization of new citizens as an important and rewarding duty. In 2015, a total of 703 new citizens were naturalized compared to 643 new citizens in the previous year.

The United States Bureau of Citizenship and Immigration Service is responsible for preparing and processing the file for each new citizen. The District Court is responsible for conducting naturalization ceremonies, during which the Oath of Allegiance is administered. Since September 1993, Magistrate Judges have joined the District Judges in presiding over these ceremonies. In 2006, Bankruptcy Judges also began presiding over naturalization ceremonies.

Naturalization ceremonies are held eight times a year, at least one of which is at the University of Delaware. In 2015, 375 new citizens participated in the ceremony at the University of Delaware. Among the private organizations that have assisted with the ceremonies are the American Legion, the Colonial Dames of America, the League of Women Voters and the Service for the Foreign Born.



U. S. BANKRUPTCY COURT



As a result of Bankruptcy Amendments and the Federal Judgeship Act of 1984, 28 U.S.C. § 157 (a) was amended to provide that each District Court could refer all Title 11 cases to a Bankruptcy Judge. On July 23, 1984, the United States District Court issued a Standing Order referring all cases under Title 11 to a U.S. Bankruptcy Judge.

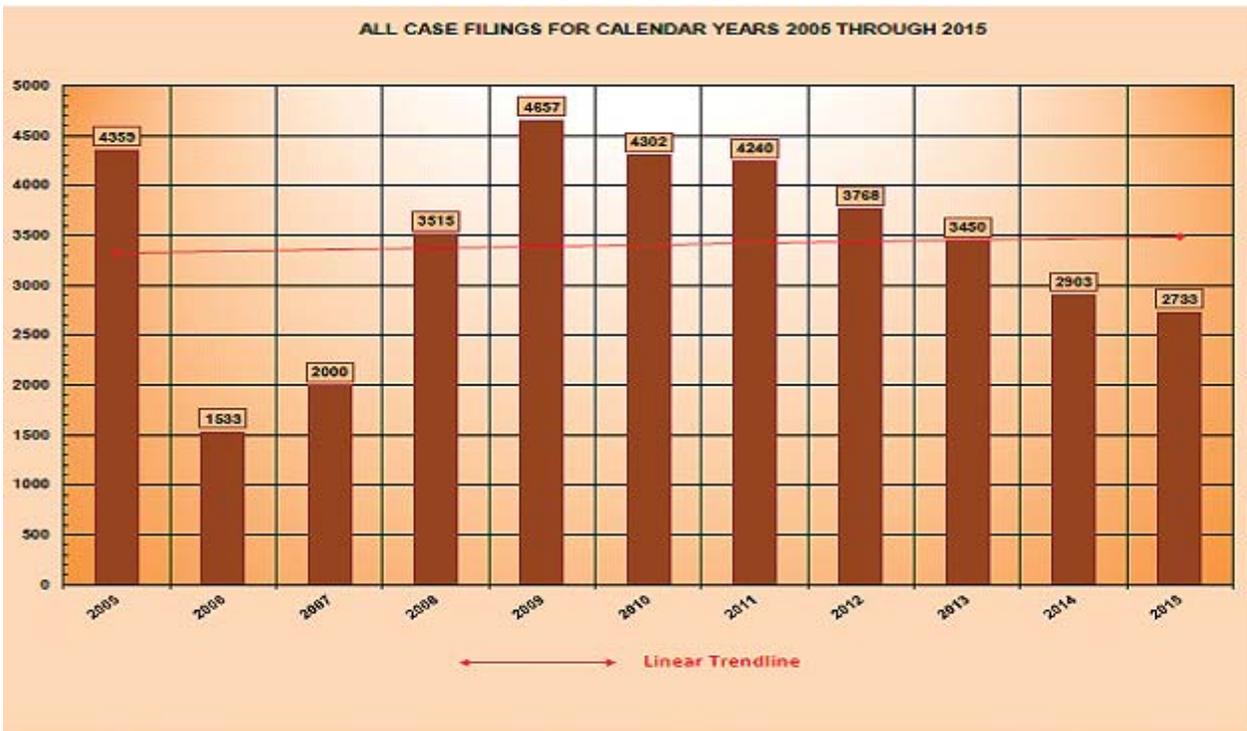
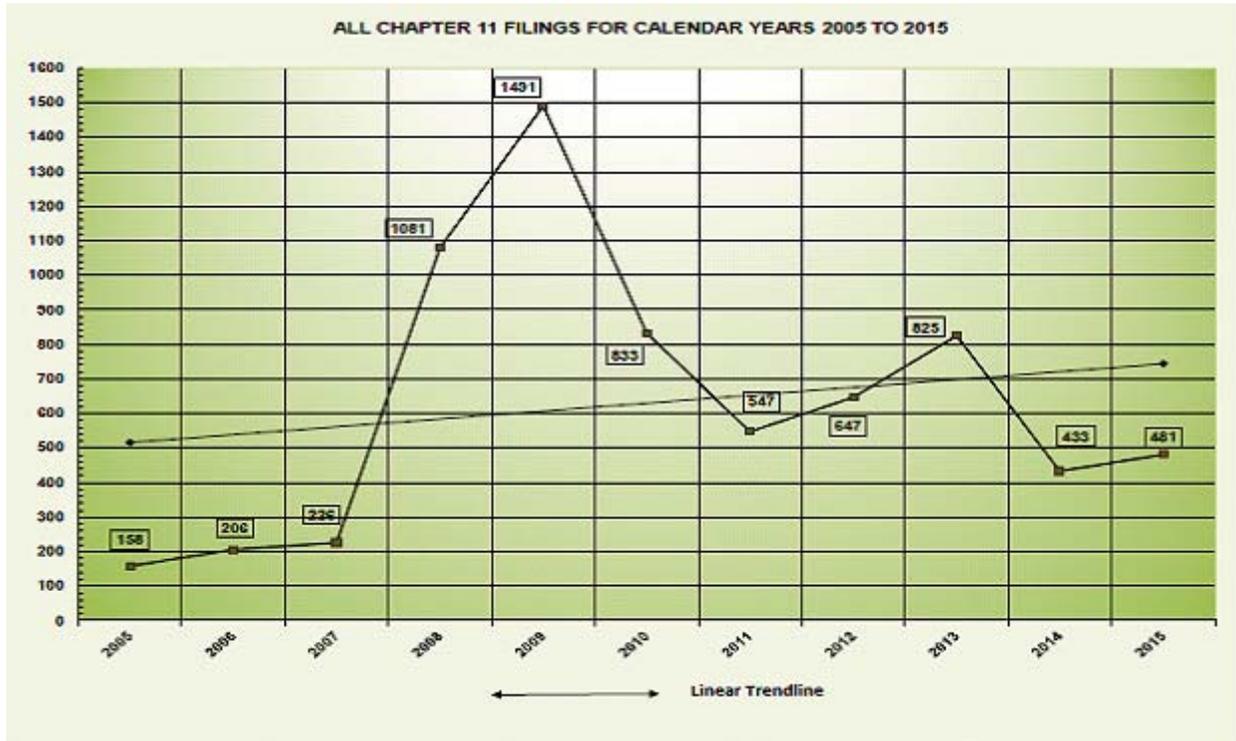
On July 23, 2004, the District Court established a panel to mediate appeals from the Bankruptcy Court to the District Court.

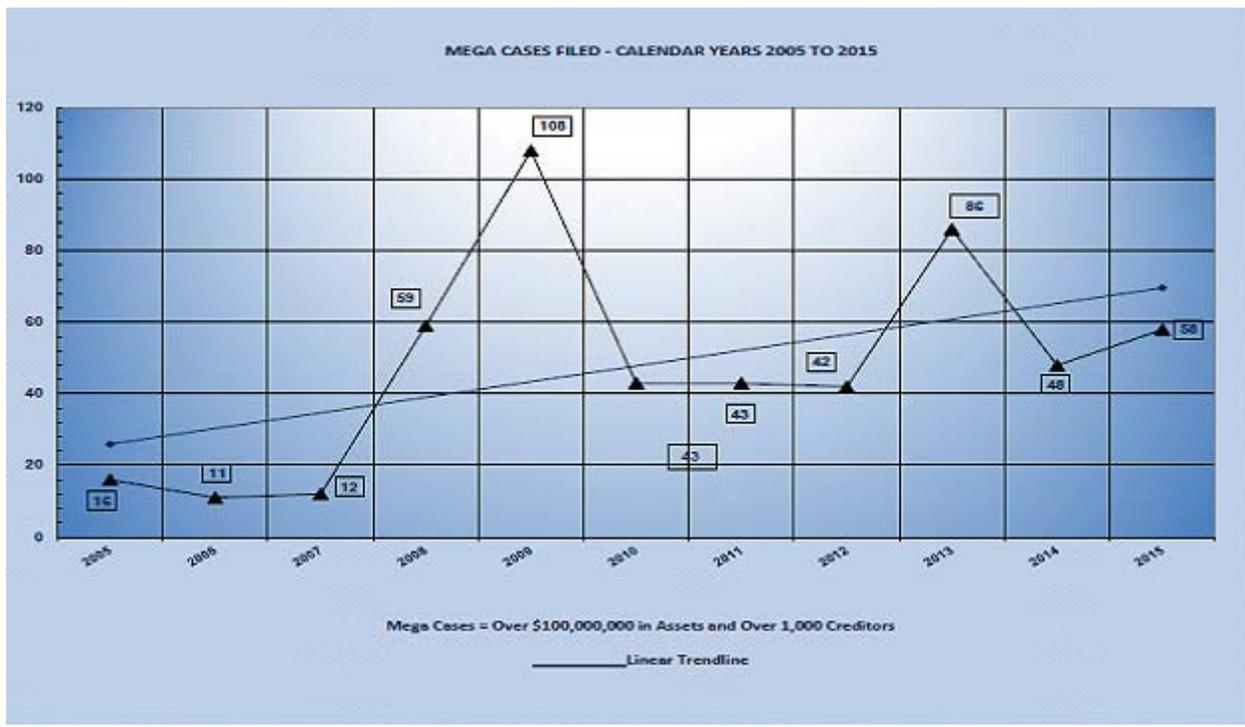
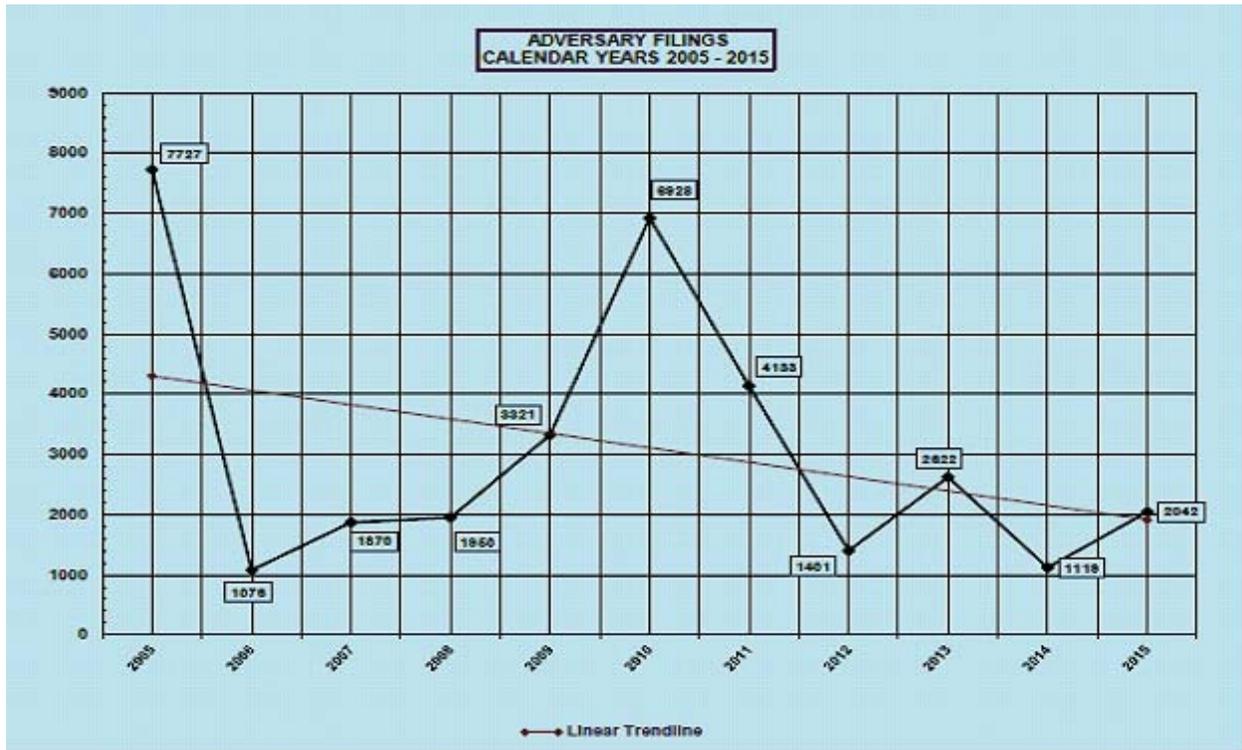
The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) added four Bankruptcy Judges to the Bankruptcy Court for the District of Delaware for a total of six judges. The District of Delaware has historically been one of the largest Chapter 11 filing Districts in the country and usually leads in the number of “mega” cases filed (cases with more than \$100 million in assets and more than 1,000 creditors). The Bankruptcy Court has the highest caseload per judge in the country. In addition to case filings, litigation within these cases, which usually take the form of Adversary Proceedings, has remained at a high level compared to other bankruptcy courts.

In August of 2016, David D. Bird, Clerk of Court, retired from the Court after nearly 17 years of service. Una O’Boyle was chosen to replace him, and was sworn in on August 29, 2016.

Brendan Linehan Shannon
Chief Bankruptcy Judge

BANKRUPTCY COURT STATISTICS





COMMUNITY OUTREACH

Re-entry Court

The District Court's Re-entry Court Program celebrated the beginning of its fifth year of existence in September 2016. The Re-entry Court is overseen by United States Magistrate Judge Christopher J. Burke and a team of representatives from the United States Probation Office, the United States Attorney's Office and the Office of the Federal Public Defender. The team works with participants (1) who are or soon will be serving a term of federal supervised release; (2) who are considered a statistically higher risk to recidivate than other persons on supervised release; and, (3) who have nevertheless indicated a strong desire to modify their future behavior so as to have a positive impact on their community. The Re-entry team closely monitors the participants' progress after release from prison, through court proceedings and otherwise, and provides the participants with enhanced opportunities for personal and professional growth. Once a participant successfully completes 52 weeks of compliant participation in the program, they may petition the District Court for a one-year reduction in their remaining supervised release term.

In 2016, the Re-entry team, lead by representatives from the United States Probation Office, fostered innovative new partnerships with area non-profit organizations, educational institutions and employers, creating a number of living wage career opportunities for Re-entry Court participants and graduates. And by the end of 2016, three more participants are expected to graduate from Re-entry Court, which would bring the total number of program graduates to 12. The next Re-entry Court graduation ceremony is scheduled for December 14, 2016 in Courtroom 2A at 4:30 p.m. It is open to the public.

High School Fellowship Program

In the Summer of 2016, the District Court implemented its new High School Fellowship Program ("HSFP"). The HSFP is a six-week program for area high school sophomores, juniors and seniors who are interested in attending college and in pursuing a career in law, but who are also in need of mentorship and financial assistance in order to help make those goals more attainable. The program allows selected students to (1) work in chambers with a federal judge or with other attorneys in the federal legal system; (2) observe numerous court events; and, (3) receive presentations from members of the federal and state judiciary, governmental organizations and members of the Delaware Bar. Three high school students participated in the inaugural version of the HSFP in 2016 and the District Court hopes to offer the program again in the Summer of 2017.

Federal Trial Practice Seminar

In the Spring of 2017, the District Court plans to offer its fifth Federal Trial Practice Seminar ("FTPS"), a bi-annual trial advocacy program for attorneys with ten years or less of practice experience. Applications for admission to the FTPS will be available on December 2, 2016 and will be due on January 6, 2017.

THE DELAWARE CHAPTER OF THE FEDERAL BAR ASSOCIATION

The Delaware Chapter of the Federal Bar Association (the “Delaware Chapter”) is the preeminent bar association for attorneys who practice in the United States Court for the District of Delaware. We serve the Bench and Bar by providing high-quality educational programs and by acting as a liaison between the Court and federal practitioners.

Thanks to the active participation of our members and the judicial officers of the United States District Court and United States Bankruptcy Court, the Delaware Chapter has enjoyed a busy and successful period since our last Annual Luncheon. As set forth below, we presented a CLE program at the FBA National Convention in Providence, Rhode Island; co-hosted a retirement dinner for Hon. Peter J. Walsh; offered our biennial Federal Trial Practice Seminar; and launched our inaugural District Bench and Bar Conference. The specific programs that we offered over the past year included the following:

- The FBA continued to partner with the Federal Probation Office for the District of Delaware and Widener University Delaware School of Law, under the direction of FBA member Charlene D. Davis, to institute the Federal Re-entry Legal Assistance Program, which is intended to provide persons who are released from federal prisons into the supervision of the Probation Office with legal assistance in civil matters that are challenging their successful re-entry into the community. Under the program, Widener Law students act as legal interns in the Probation Office. They interview potential clients and provide comprehensive outlines of the legal issues confronting the interviewees to Ms. Davis, who acts as supervising attorney for the program. Ms. Davis reviews the material and assigns a volunteer attorney to the matter. To date, legal services have been or continue to be provided to a number of releasees in connection with matters involving applications for social security disability benefits, family law issues, and driving privileges suspensions.
- On October 27, 2015, the Delaware Chapter and the Bankruptcy Court sponsored a CLE program with Judge Brendan Shannon on the consumer bankruptcy practice. This half-day event followed the regularly scheduled consumer bankruptcy calendar before the Court and featured a variety of interactive programming regarding the effective management of consumer bankruptcy filings. A reception followed, during which members of the consumer bankruptcy bar were joined by various members of the Bankruptcy Court.
- On Thursday, January 21, 2016, the FBA hosted a program for new admittees to the District Court entitled: “Introduction to Practice in the District Court of Delaware.” The program, presented by Hon. Christopher J. Burke and FBA President Stephen B. Braerman, provided helpful advice for new members of the Delaware Bar preparing to practice in the District Court. The program was followed by the District Court’s annual Admissions Ceremony. Chief United States District Judge Leonard P. Stark provided remarks on behalf of the Court, and United States District Judge

Richard G. Andrews presented approximately 45 new admittees with certificates of admission. Following the ceremony, the Court welcomed the new admittees with a reception in the Jury Assembly Room.

- On January 26, 2016, the Intellectual Property Section hosted its annual dinner with all of the members of the District Court. The event featured a presentation by Hon. Leonard P. Stark on the current status of the Patent Study Group and a group discussion about concerns among patent litigators in the District.
- On February 23, 2016, the Delaware Chapter hosted its first in a series of “Brown Bag” lunches. This lunch featured a presentation from Magistrate Judge Sherry R. Fallon on the changes to the Federal Rules of Civil Procedure.
- On March 22, 2016, the Delaware Chapter hosted its second in a series of “Brown Bag” lunches. This lunch featured District Judge Richard G. Andrews’s rendition of his “Letterman-style” top ten list of “Practice Points Practitioners Should Know About Appearing Before Judge Andrews.”
- On April 28, 2016, the Delaware Chapter hosted its third in a series of “Brown Bag” lunches. This lunch featured an open discussion with District Judge Gregory M. Sleet on recent developments in the District and what the Court could expect to see from litigants over the next year.
- On May 19-20, 2016, the Delaware Chapter and the United States District Court held its Second Bench and Bar Conference, which was co-sponsored by the Federal Circuit Bar Association. Approximately 400 people attended the conference. The first day of the conference had three plenary sessions, featuring nationally recognized practitioners and members of the United States Courts of Appeals for the Third and Federal Circuits and the United States District Courts for the Districts of Delaware, Northern California, Eastern Pennsylvania, Western Pennsylvania, Eastern Texas, Northern Texas, and New Jersey. Lunch included a panel presentation from retired federal judges. The day was capped off with a “Taste of Delaware Event,” with the Philly Keys dueling pianos. The second day of the conference began with a Keynote address from United States Senator Christopher Coons (D. Del.) and featured three separate tracks: bankruptcy, criminal and intellectual property law. The Bankruptcy Section of the Federal Bar Association co-sponsored the bankruptcy programs, which included panels digesting the RadioShack bankruptcy, Oil & Gas filings and hot topics in bankruptcy law. Attendees earned 10 CLE credits.
- In June and July 2016, the FBA partnered with the District Court to hold several events for summer interns and externs from the Court and federal agencies. On June 30, 2016, the FBA hosted its annual intern/extern luncheon, which featured remarks by Hon. Christopher J. Burke and a video on the Federal Trial Practice Seminar. On July 15, 2015, the FBA hosted a professionalism luncheon and seminar at the Hotel

DuPont, which featured a speaker on professional etiquette and a high pressured lunch applying the techniques used. The FBA also assisted with the Court's High School Fellowship Program, which provided paid internships to local high school students in an effort to acquaint them with the work of the Court.

- On September 13, 2016, the FBA sponsored a reception following the Bankruptcy Court's law clerk orientation program. Chief Judge Shannon, Judges Walrath, Sontchi, Gross, and Silverstein participated in the one-day program. FBA President, Stephen B. Brauerman also spoke during the orientation program about the benefits of membership in the Delaware Chapter of the FBA.

In recognition of our collective efforts over the past year, the Delaware Chapter was recognized at the FBA National Convention this past month in Cleveland, Ohio with the Presidential Achievement Award. The award is a wonderful acknowledgement of our shared efforts in building one of the best bar associations in the country.

Our outstanding year of programs and national recognition would not have been possible without the strong and sustained support that we have received from the District Court, the Bankruptcy Court, and the federal bar. We look forward to continuing our service to the federal legal community in Delaware over the upcoming year.

Respectfully,

Stephen B. Brauerman, Esq.
President, Delaware Chapter of the Federal Bar Association