
UNITED STATES DISTRICT COURT DISTRICT OF DELAWARE



ANNUAL REPORT 2017



J. CALEB BOGGS FEDERAL BUILDING
844 NORTH KING STREET
WILMINGTON, DE 19801

**ANNUAL REPORT
OF THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF DELAWARE
TO THE
FEDERAL BAR ASSOCIATION
2017**

THIS REPORT WAS PRODUCED BY THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
J. CALEB BOGGS FEDERAL BUILDING
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Photographs by:

Eric Crossan

INTRODUCTION

A highlight of any Passover Seder is when the youngest person in attendance who is able to read asks the Four Questions. Several of the questions relate to food. Why, tonight, do we eat matzoh instead of bread? Why do we dip our vegetables in salt water? But the youngster is first supposed to inquire: why is this night different from all other nights?

As we prepared this Annual Report, my thoughts turned to Passover because the main question to be asked today is, obviously: why is this year different from all other years? For the United States District Court for the District of Delaware is truly at a unique moment in its history.

First, of course, is the fact that we are barely weeks away from the retirement of the Honorable Sue L. Robinson, who has served the Court so admirably since 1991. Judge Robinson took senior status in February and, happily for me, decided to stay to help work on the cases on her docket at that time. We will have one more chance to celebrate Judge Robinson's tenure with the Court on July 25, when we will unveil her official portrait. I hope many of you will be there with us to recognize Judge Robinson's contributions to the Court.



At that point we will have only one Senior Judge on our Court: the Honorable Gregory M. Sleet. On May 1 of this year, Judge Sleet took senior status. Judge Sleet has provided nearly two decades of remarkable judicial service to this Court. There will be opportunities ahead to celebrate Judge Sleet's career and recognize in detail his contributions to our Court. But I'm not nearly ready to write of him in the past tense. For, in yet another generous act of public service – during a career marked by many – Judge Sleet has continued as a Senior Judge to carry a full caseload. I (like Judge Andrews) am extremely grateful for this.

Senior Judge Robinson and Sleet's decisions mean that a Court which had not seen a Senior Judge handle a single case in more than a dozen years, has now enjoyed the benefit of two very active Senior Judges. Of course, these same decisions by my colleagues have resulted in two judicial vacancies. We are now in the unprecedented situation of being in the second month of having two of our four District Judgeships vacant. I imagine no Court can thrive for long with half of its judgeships empty. I am afraid that our Court, which was very busy even when fully-staffed, cannot.

And projections are that we may be about to become significantly more busy. Many anticipate that this will be the consequence of the Supreme Court's decision last month in *TC Heartland LLC v Kraft Foods Group Brands LLC*, which held that, for purposes of determining a proper venue in a patent suit, a corporation "resides" in its state of incorporation. Given that about two-thirds of the largest U.S. corporations are incorporated in Delaware, it is easy to foresee that we may soon leap from being the second-most "popular" jurisdiction for patent litigation (as measured by the number of cases filed) to the top spot.

We need help. With the vacancies, the heavy docket, and the prospect of an even greater number of cases in the future, we decided to call on other judges to assist with handling our cases. Fortunately, many judges – from near and far – are willing to assist us.

Five visiting District Judges have already begun taking some of our cases: Judges Goldberg, McHugh, Kearney, and Robreno of the Eastern District of Pennsylvania and Judge Bataillon of the District of Nebraska. Chief Judge Smith of the Third Circuit, as well as Judge Jordan, have also taken cases. We are extremely appreciative to all of them for taking on these added duties, and particularly to Chief Judge Smith, who is actively trying to get our District whatever resources he can.

I am continuing to discuss with other judges the possibility of taking on some of our cases. If the vacancies persist for any significant amount of time, it is likely we will be joined by other visiting judges.

Of course, not everything is in flux. In addition to handling our docket in as fair and timely a manner as possible, we have continued with the many non-case related activities and initiatives that are now defining characteristics of our Court. With the Federal Bar Association, we just completed our fifth installment of the highly-successful Federal Trial Practice Seminar. Also with the help of the FBA, we held a portrait ceremony for the Honorable Joseph J. Farnan, Jr., who retired in 2010, and events including a discussion with former Solicitor General Ted Olson and a seminar focused on consumer bankruptcy litigation.

We also updated our Court Reporter Management Plan for the first time since 1982. We will offer training on the new Plan in early fall and aim to implement it in full in November. Our Re-entry Court, presided over by Judge Burke, continues to offer extensive resources to a high-risk population of former offenders who are returning to their communities. We are currently in the midst of our second summer for our High School Fellowship Program.

And next year will see the return of our District Bench and Bar Conference. I am pleased to confirm that we will hold the Bench and Bar in May 2018. Many more details will follow in the near future, but I am excited today to reveal one innovation: the dinner during the Bench and Bar will be held at Longwood Gardens! We look forward to sharing this treasure of the Brandywine Valley with judges and lawyers from around the country, as well as with the Delaware bar. There is much to look forward to in 2018.

Traditionally, a Passover Seder ends with the song, “Next Year in Jerusalem.” Rabbis debate the finer points of its meaning, but it is generally understood as a metaphorical expression of the hope that things are always improving, that the day when all will enjoy peace, love, and comfort is not too far away. Less loftily, let us hope that, for those of us who work for and in the District of Delaware, the next year will be a good year for all of us.

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 slight increase in civil filings for the first time since 2013. In 2016 the Court had an approximate 6.9 percent increase in overall civil case filings. The Court also experienced a 35 percent increase in criminal filings.

On May 23, 2016, the Clerk's Office went live on eVoucher, a new electronic process for the filing of Criminal Justice Act (CJA) claims developed by the U. S. District Court for the District of Nevada. eVoucher allows lawyers who represent indigent defendants to submit their vouchers electronically, saving time and resources. The system covers all aspects of panel attorneys' processing from initial submission through final review by the judge or the circuit. The application also has the ability to help with attorney appointments and CJA Panel management.

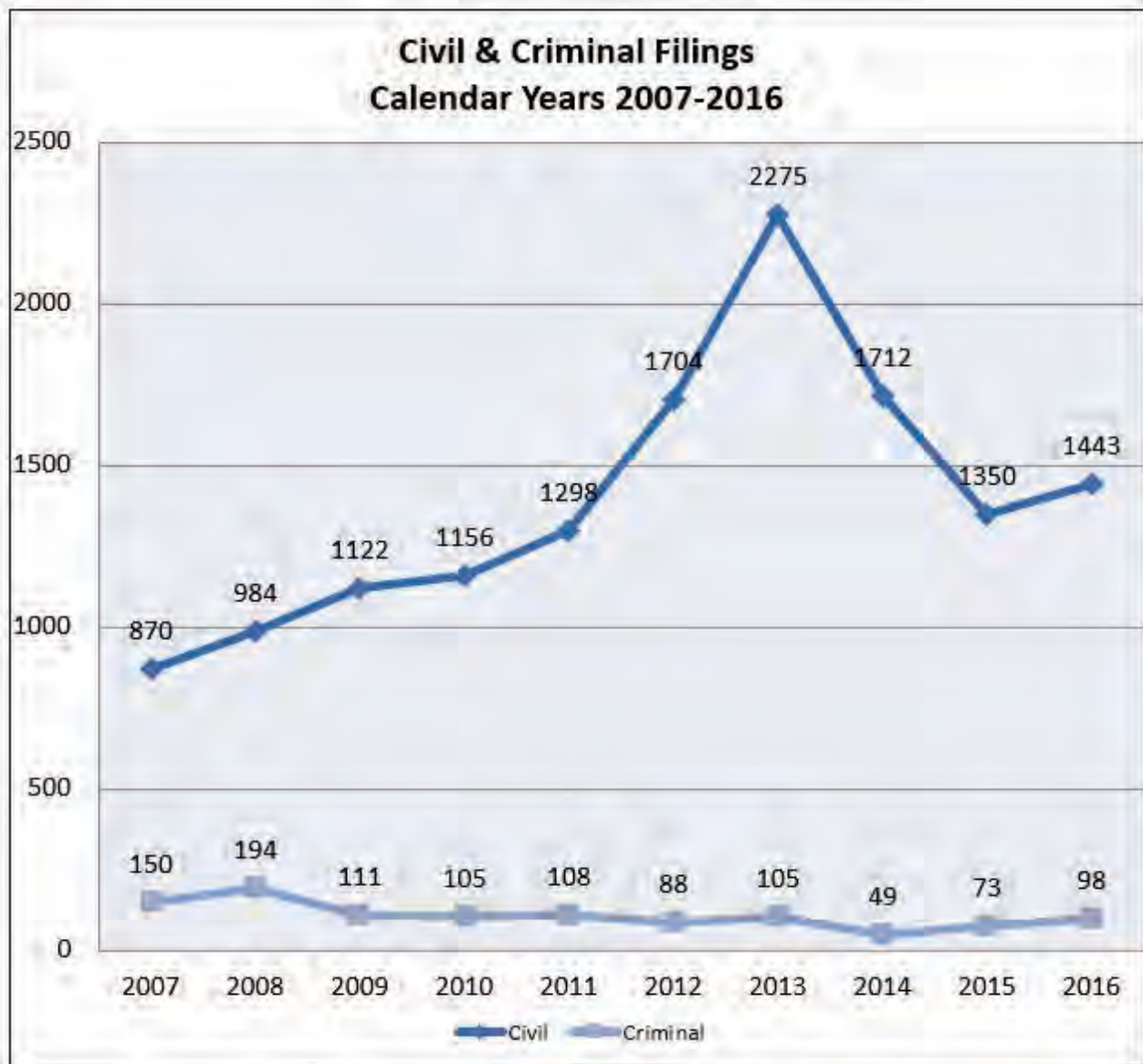
To ensure our case information is secure and to keep current with the latest technology, during the past year the Clerk's Office has focused heavily on Information Systems security and upgrades to the Information Technology and automated systems. We installed and upgraded both hardware and software firewalls on all of our servers and workstations. Additionally we upgraded existing security and added security layers to local and wide area networks for internal and external users. For attorneys, we increased the bandwidth of wireless service and upgraded our evidence presentation systems in the sixth floor courtrooms. The wireless service was increased fourfold for both uploads and downloads. The evidence presentation upgrades include laser projectors, drop-down screens, document cameras, Blu-ray players and wireless collaboration tools. All of these upgrades are provided to enhance service to the Bench, the Bar and the Public.

Respectfully submitted,

John A. Cerino
Clerk of Court

CIVIL AND CRIMINAL FILINGS

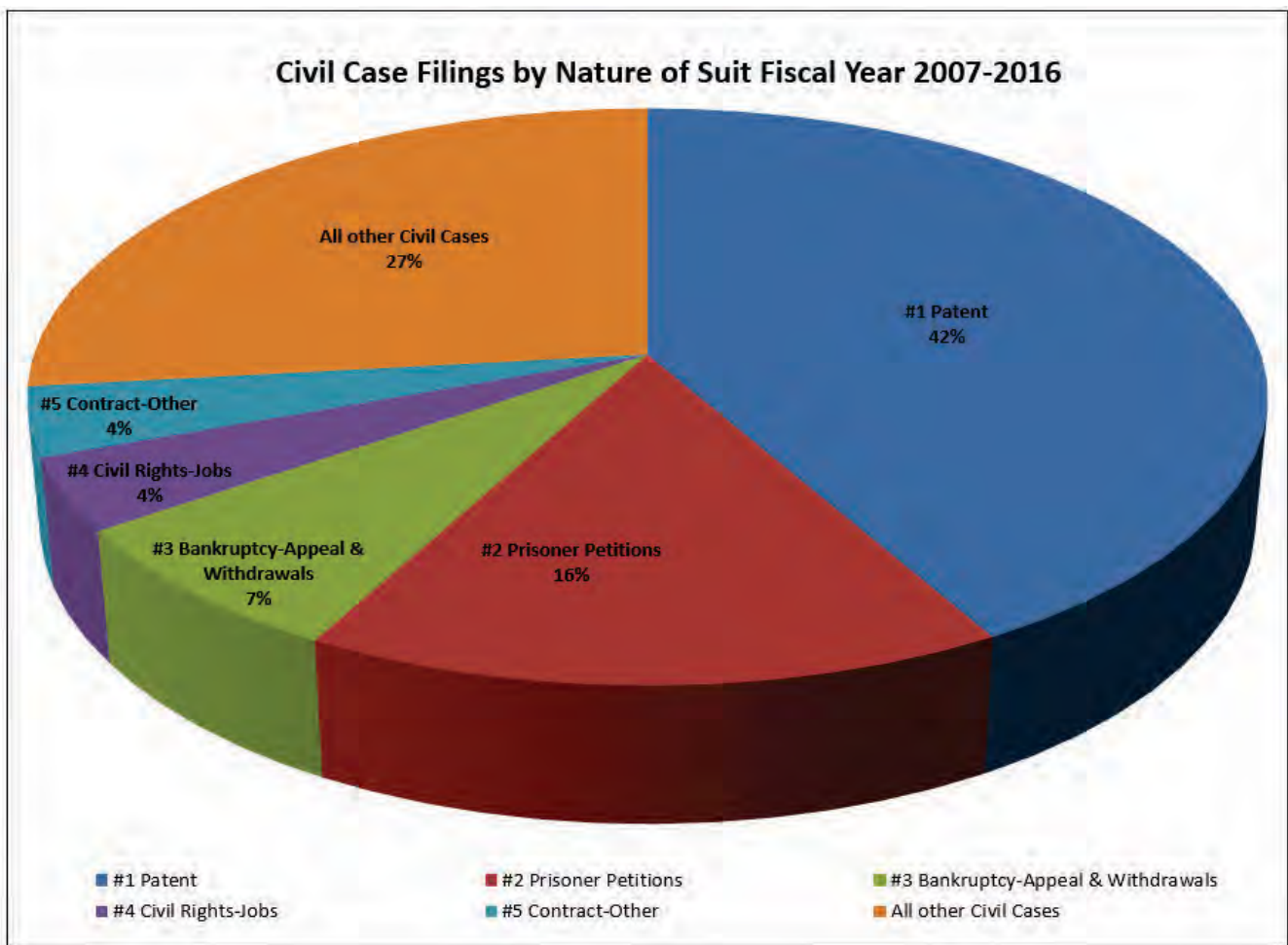
The following graph shows civil and criminal filing trends from 2007 to 2016. Civil case filings made a slight increase in 2016 for the first time in the past two years. In 2016, a total 1,443 civil cases were filed, a 6.9 percent increase from the previous year of 1,350 cases filed. Criminal case filings increased from 73 in 2015 to 98 in 2016, a 35 percent increase from the previous year.



CIVIL CASE FILINGS

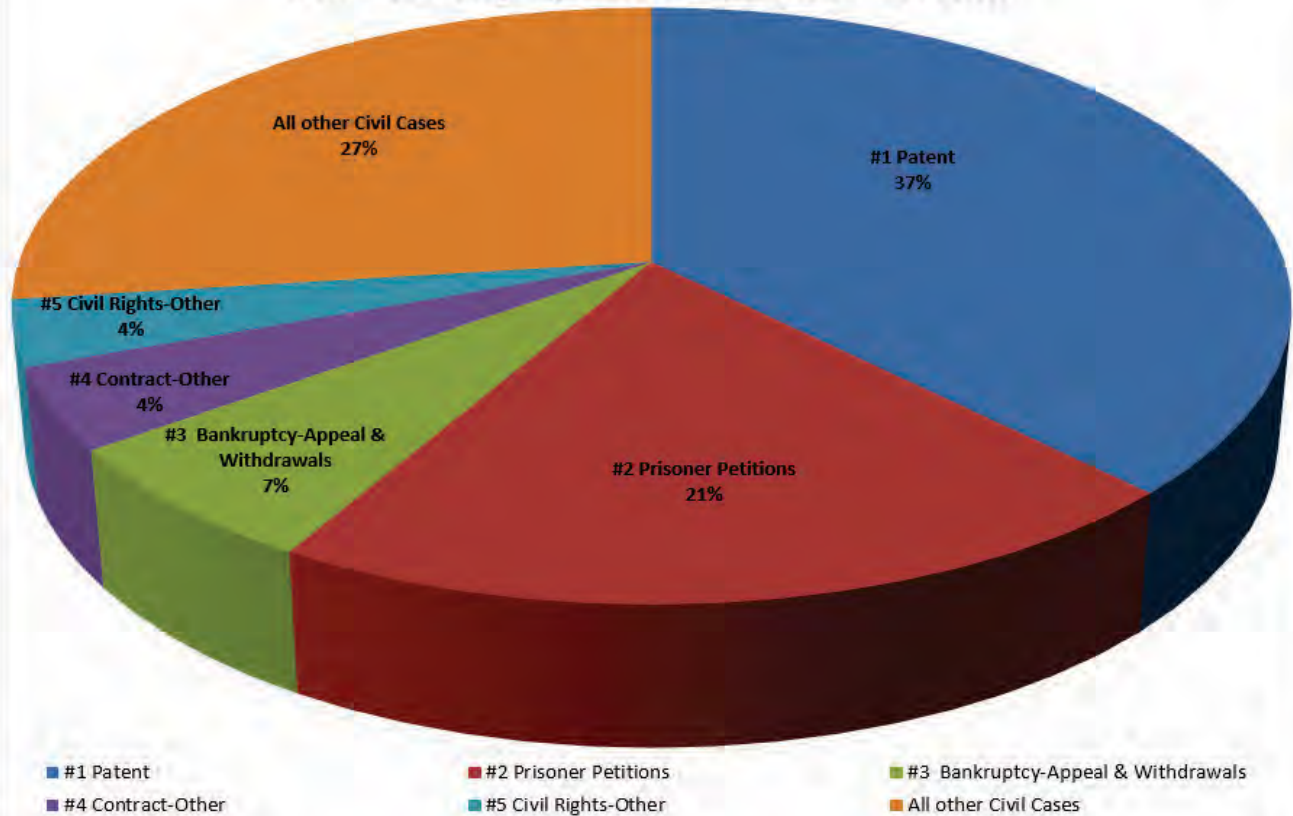
The two graphs that follow represent the types of civil cases filed in the District since 2007, characterized by nature of suit. From decade to decade, the six top categories generally remain the same, but the percentage of total civil filings within those categories has changed. The high percentage of patent litigation continues to dominate the Court's caseload.

The first graph displays the cumulative caseload average covering the fiscal years from 2007 through 2016. Patent cases account for 42 percent of civil filings, Prisoner Petitions 16 percent, Bankruptcy-Related Cases 7 percent, Civil Rights-Employment 4 percent and Other Contract Cases 4 percent. All Other Civil Cases accounted for 27 percent of the civil filings.



The second graph displays total civil filings for fiscal year 2016 by nature of suit. Patent cases account for 37 percent of civil filings, Prisoner Petitions 21 percent, Bankruptcy-Related Cases 7 percent, Other Contract Cases 4 percent, Civil Rights-Other 4 percent, and All Other Civil Cases 27 percent.

Civil Case Filings by Nature of Suit Fiscal Year 2016

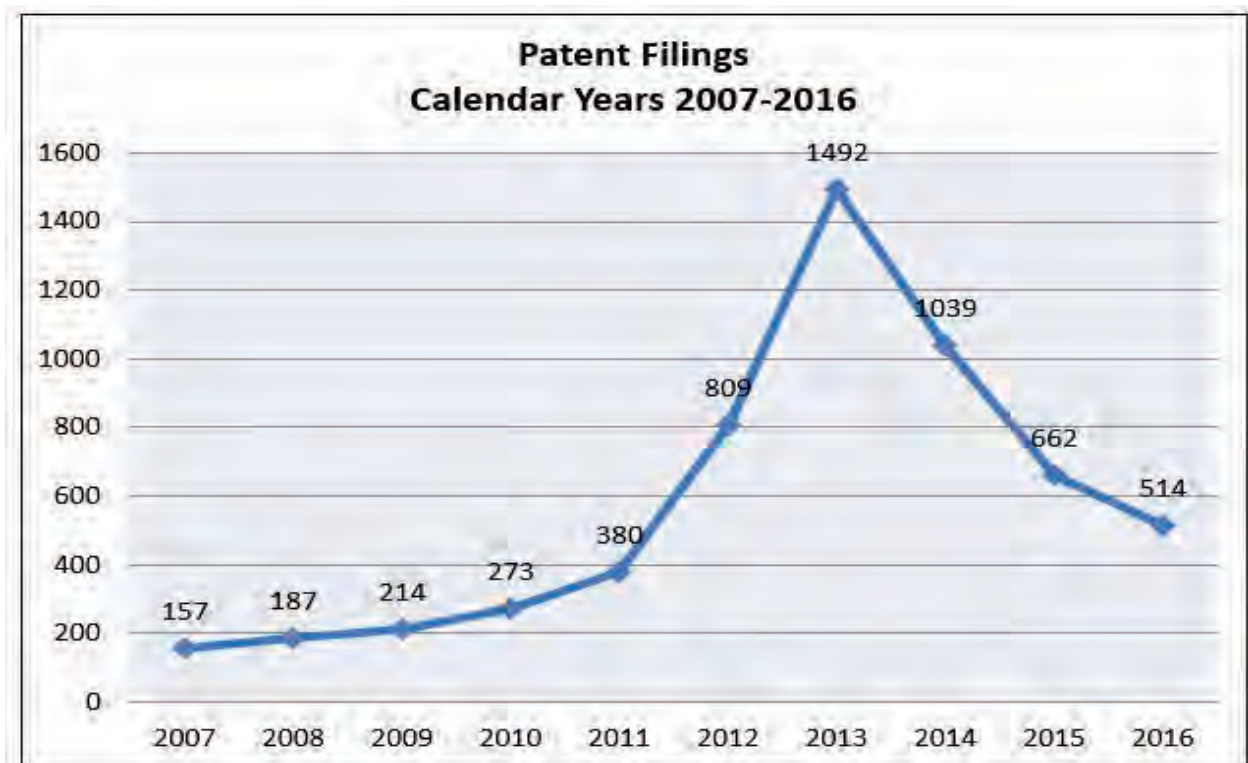


PATENT CASE FILINGS

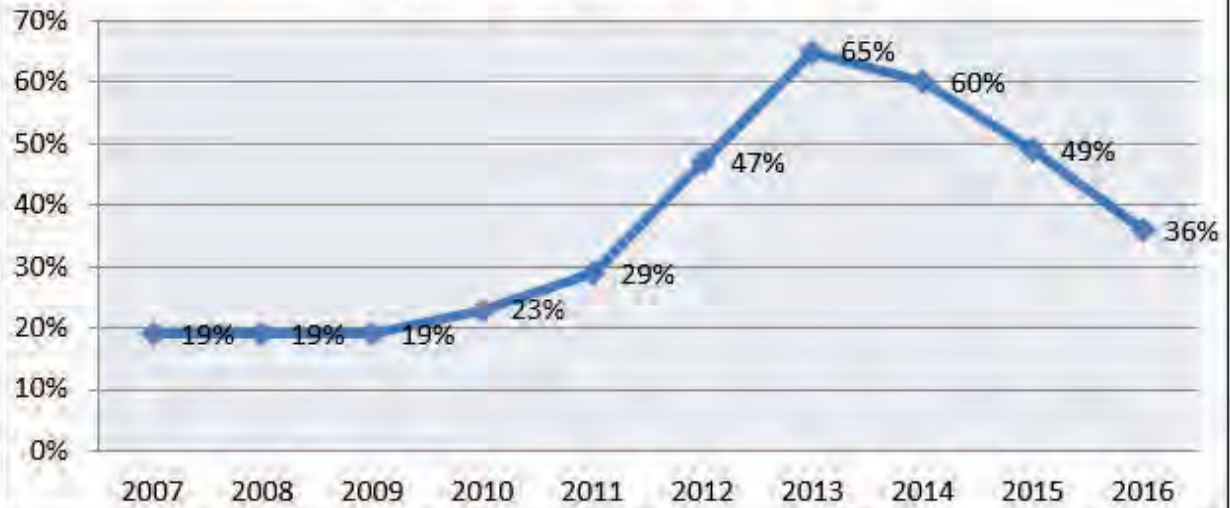
Patent filings continue to be a substantial part of the District Court's caseload. The first graph details the annual number of filings during the period from 2007-2016. In 2016, 514 patent cases were filed, approximately a 22.25 percent decrease from the previous year of 662.

The second graph shows the decrease of patent filings as a percentage of total caseload, which dropped 26.4 percent from 49 percent in 2015 to 36 percent in 2016.

For the past decade, Delaware has ranked in the top six district courts for patent filings in the nation. The third graph displays the cumulative average of patent filings per authorized judgeship from 2007 to 2016. During those years, Delaware averaged 143 patent cases filed per authorized judgeship. For the second time since 2007 Delaware fell to the second position in the number of patent cases filed per authorized judgeship to 128 cases. A 22 percent decrease from the previous year of 165 cases. Even with a drop of 22 percent Delaware continues to be 815 percent higher than the third, fourth and fifth positions nationally.



**Patent Filings as a
Percentage of Civil Caseload
Calendar Years 2007-2016**



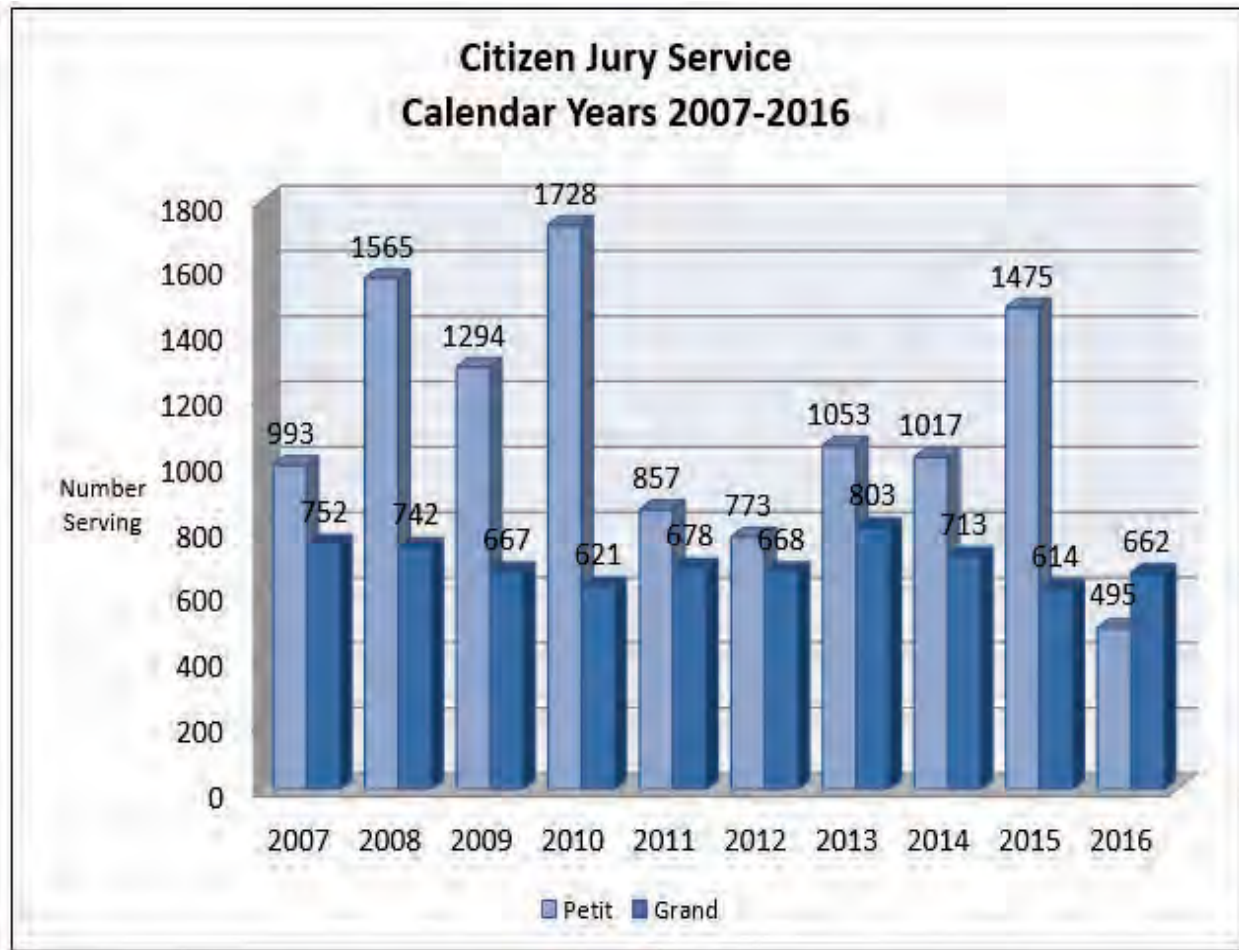
**Average Patent Cases Per Judgeship
Calendar Years 2007-2016**



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 2016, the total number of citizens who reported for petit jury duty was 495, compared to 2015, when 1475 reported. Service on grand juries increased slightly in 2016 to 662 citizens reported compared to 2015, when 614 citizens reported for service.

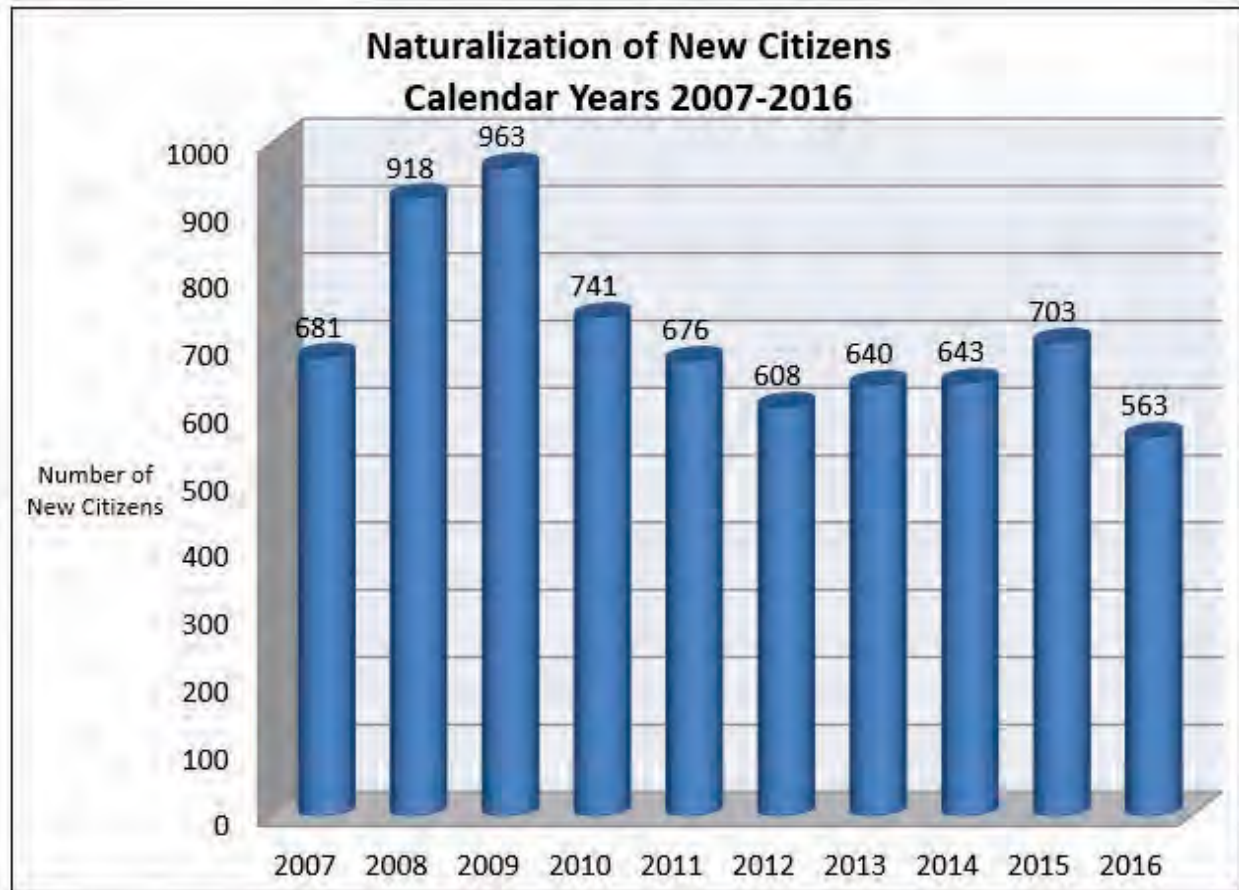


NATURALIZATION

The Judges of the District Court of Delaware view the naturalization of new citizens as an important and rewarding duty. In 2016, a total of 563 new citizens were naturalized compared to 703 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 conducted at the University of Delaware. In 2016, 130 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

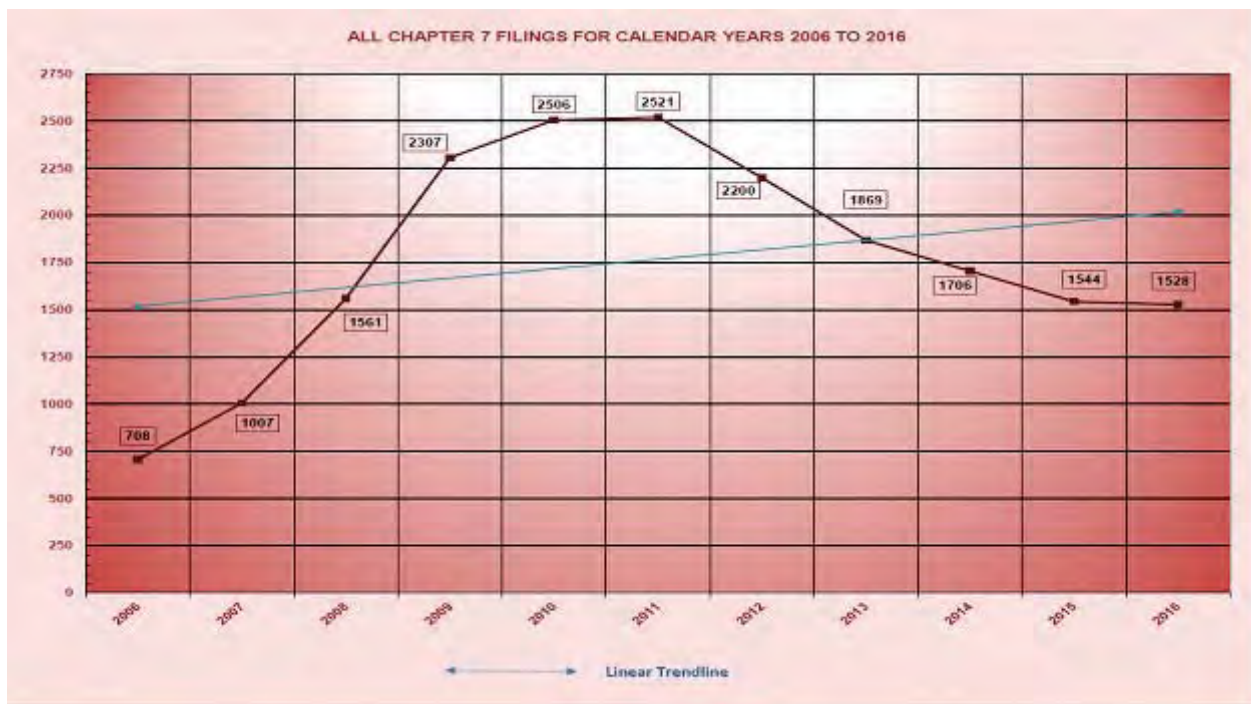
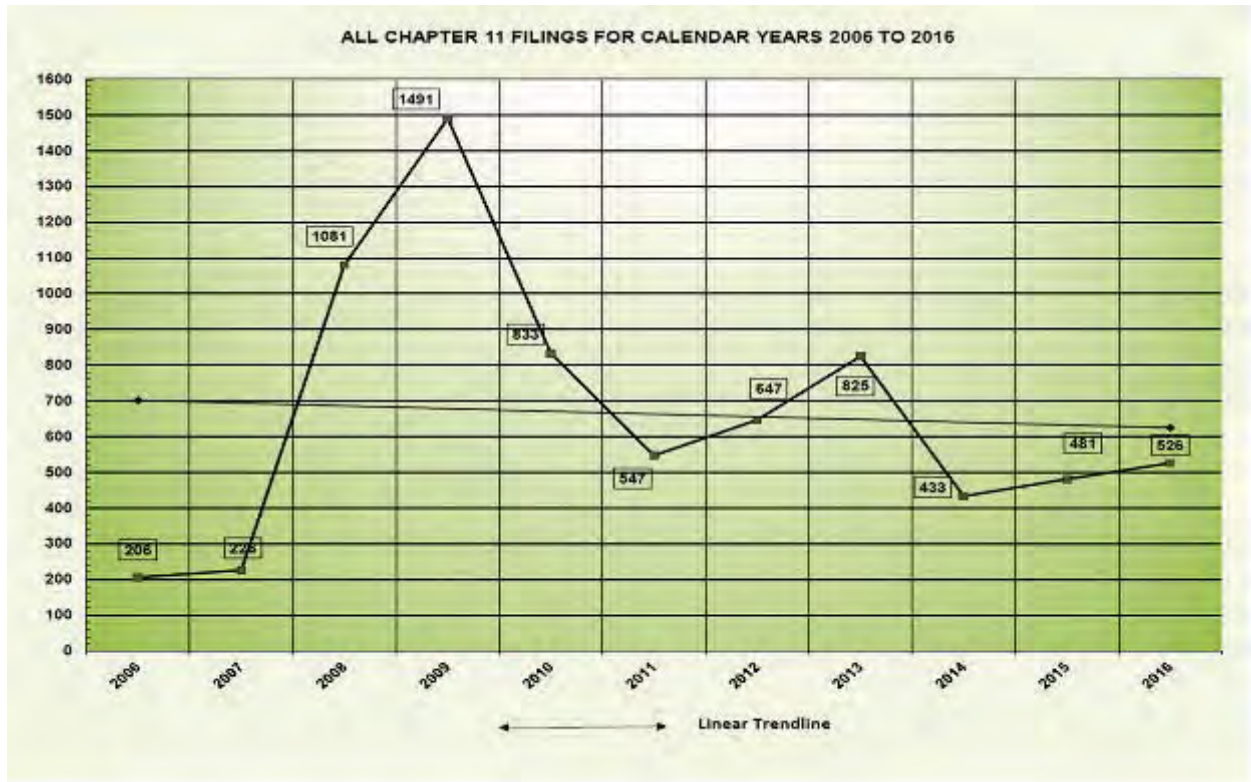
As a result of Bankruptcy Amendments and the Federal Judgeship Act of 1984, 28 U.S.C. § 157 (a) was amended to provide that each District Court could refer all Title 11 cases to a Bankruptcy Judge. On July 23, 1984, the United States District Court issued a Standing Order referring all cases under Title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



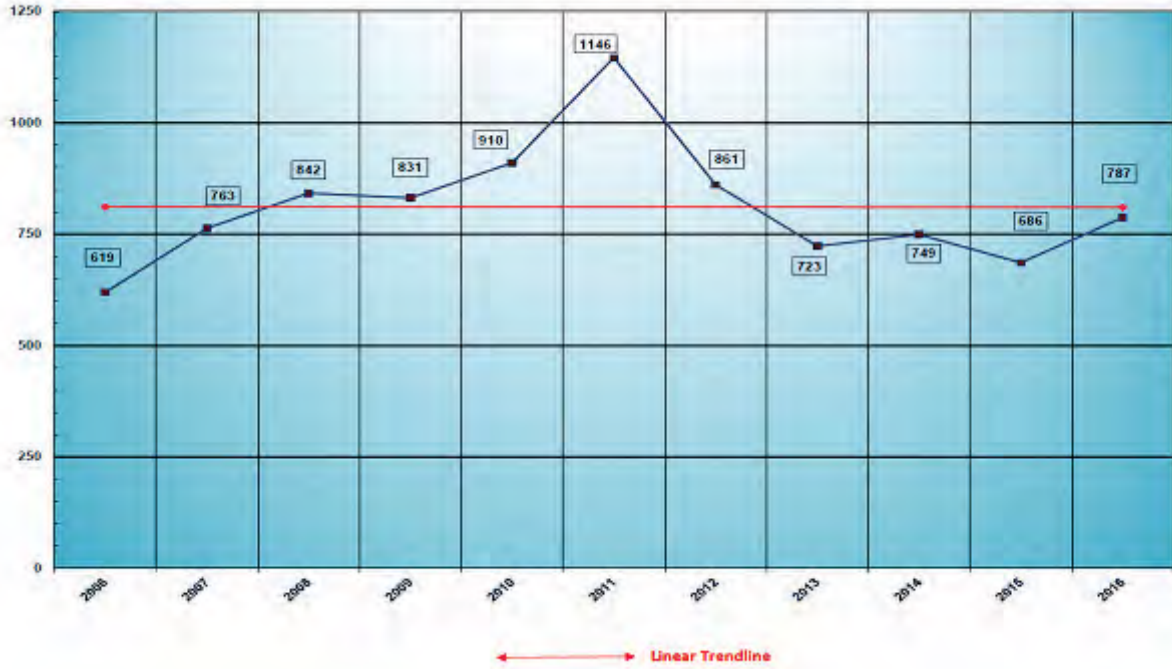
The United States Bankruptcy Court for the District of Delaware has a total of six judges. The District of Delaware has historically been one of the largest Chapter 11 filing districts in the country and usually leads in the number of “mega” cases filed (cases with more than \$100 million in assets and more than 1,000 creditors). The Bankruptcy Court has the highest weighted 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 around the country.

Brendan Linehan Shannon
Chief Bankruptcy Judge

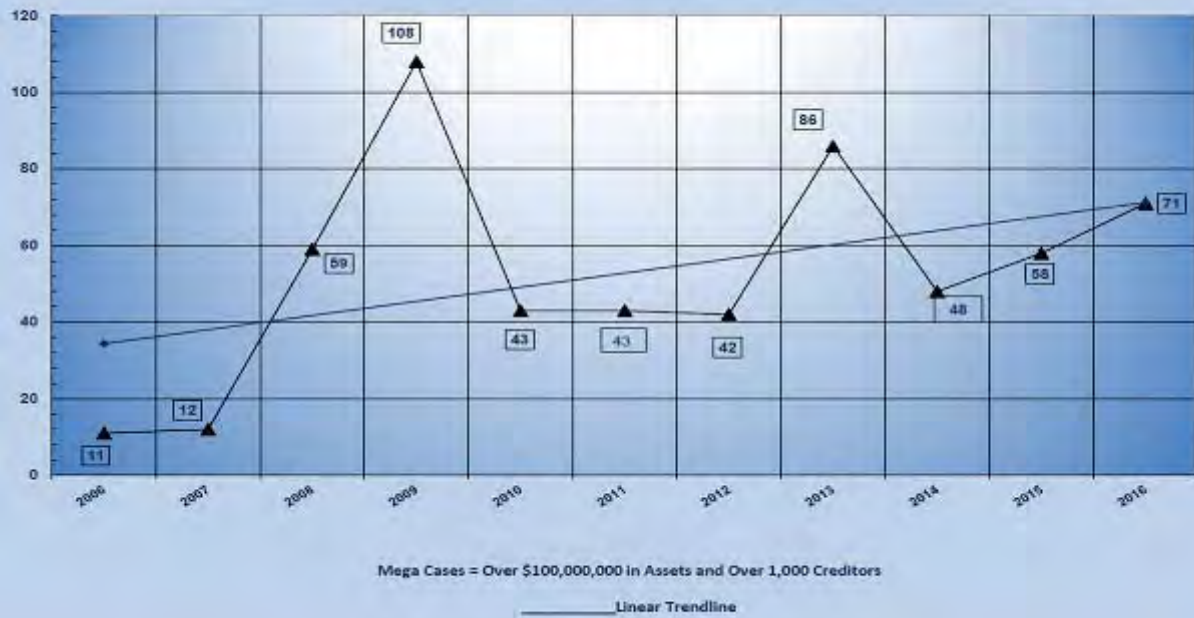
BANKRUPTCY COURT STATISTICS

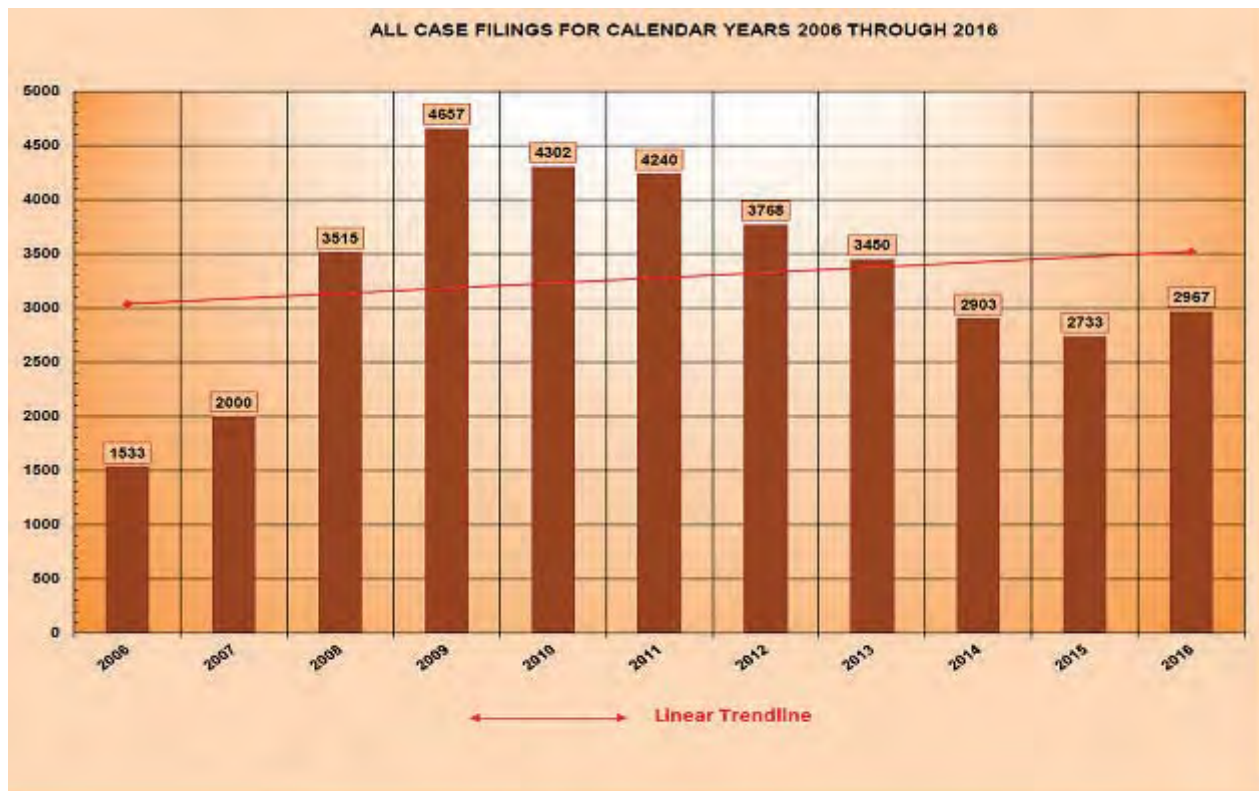
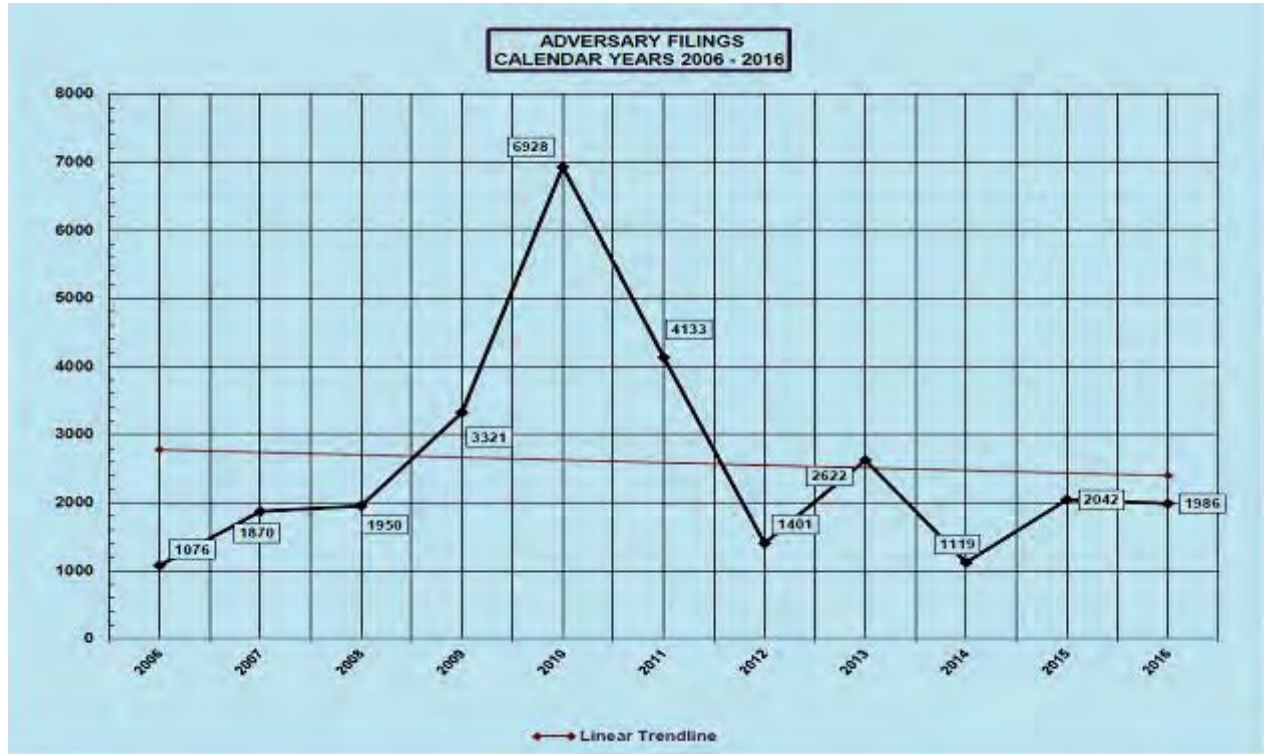


ALL CHAPTER 13 FILINGS FOR CALENDAR YEARS 2006 TO 2016



MEGA CASES FILED - CALENDAR YEARS 2006 TO 2016





COMMUNITY OUTREACH

Re-entry Court

The District Court's Re-entry Court program will begin its sixth year in September 2017. The Re-entry Court is overseen by a United States Magistrate Judge 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. As of mid-2017, 12 participants in the Re-entry Court have graduated from the program.

High School Fellowship Program

In the Summer of 2017, the District Court will oversee its High School Fellowship Program ("HSFP") for the second year in a row. The HSFP is a six-week program for Delaware 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 have been selected to participate in the 2017 HSFP and will begin that program on June 26, 2017.

Federal Trial Practice Seminar

In the Spring of 2017, the District Court offered its fifth Federal Trial Practice Seminar ("FTPS"), a bi-annual trial advocacy program for attorneys with 10 years or less of practice experience. Eight attorneys participated in the 2017 FTPS: Brian Biggs, Santosh Coutinho, Nitika Gupta Fiorella, Michael Flynn, Kyle Evans Gay, Megan Haney, Jason Rawnsley and Andrew Russell. This year's program featured opportunities for the participants to: (1) hear lectures from accomplished trial attorneys, including Brian McMonagle, George Lombardi, Kathryn Ruemmler and Colm Connolly; (2) give "mock" opening statements, closing arguments and arguments on motions in limine; (3) participate in a full-day mock trial, before a jury of Delaware citizens, overseen by the judges of the District Court; and (4) receive critiques on their performance from the judges of the District Court and from experienced Delaware practitioners. At a closing ceremony held on June 13, 2017, the participants received diplomas commemorating their participation. Since the FTPS began in 2010, 44 Delaware-based attorneys have participated in the program.

In Fall 2017, the Bankruptcy Court will offer the Bankruptcy Trial Practice Seminar—a program modeled in part on the FTPS—for the first time. This is an instructional trial practice program designed for attorneys who have three to six years of experience and who have an interest in regularly appearing in the Bankruptcy Court.

THE DELAWARE CHAPTER OF THE FEDERAL BAR ASSOCIATION

Serving as President of the Delaware Chapter of the Federal Bar Association (the “Delaware Chapter”) for the past two years has been an honor and a privilege. During my term, I have worked with exceptional, dedicated lawyers and a supportive and engaged judiciary. I am particularly grateful for the wise counsel and leadership of Chief Judge Stark, Senior Judge Robinson, Chief Judge Shannon, Judge Gross and the other members of the District and Bankruptcy Courts, who always answer the Delaware Chapter’s numerous requests – whether to host a “Brown Bag” lunch, speak on a panel, attend a social event, or donate countless hours to the Federal Trial Practice Seminar. I also would like to express my appreciation and gratitude to Rocky Kravetz, Kelly Farnan, Andrew Mayo, Jeff Castellano, and the leadership of the Delaware Chapter for their support and assistance these past two years.

Thanks to the efforts of these, and many other individuals, and 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. Specifically, the Delaware Chapter has put on the following programs and events:

- 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 18, 2016, the FBA hosted the fourth in its series of “Brown Bag” lunches with Chief Magistrate Judge Mary Pat Thyng.
- On Monday, November 28, 2016, the FBA sponsored a Fireside Chat with former Solicitor General of the United States Theodore Olson and Dean Ted Ruger of the University of Pennsylvania School of Law. Topics included Mr. Olson’s distinguished career, appellate practice, and a discussion of legal implications of the recent presidential election. Following the Fireside Chat, Mr. Olson and Dean Ruger participated in a happy hour with members of the Delaware Chapter and a dinner with a number of Delaware judges from both the state and federal courts.

- On December 8, 2016, the FBA hosted a “Brown Bag” lunch with Magistrate Judge Christopher J. Burke. Among other topics, Judge Burke discussed ways the bench and bar could integrate younger attorneys into court proceedings.
- On January 5, 2017, the FBA hosted its final “Brown Bag” lunch with Chief Judge Leonard P. Stark. Chief Judge Stark discussed the current state of litigation in the District and answered questions from attendees.
- On January 19, 2017, 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. Brauerman, 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 Richard G. Andrews presented approximately 40 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 31, 2017, the Delaware Chapter and the Bankruptcy Court sponsored a CLE program with Judges Brendan Shannon and Laurie Silverstein on the consumer bankruptcy practice. This half-day event featured a variety of interactive programming regarding best practices and the effective management of consumer bankruptcy filings. The program was followed by a reception at the Hotel DuPont.
- On February 23, 2017, the Delaware Chapter hosted its first “Younger Lawyer’s” Happy Hour at Merchant Bar on Market Street. Although geared towards attorneys under 40 or with fewer than 10 years of experience, members of the Delaware Chapter who felt “younger” were also invited to attend.
- On March 27, 2017, the Delaware Chapter and the District Court co-sponsored the Presentation of the Official Portrait of the Honorable Joseph J. Farnan, Jr. Breaking with tradition, the Court amended its practices to remove the requirement that portraits only could be hung posthumously. The event celebrated Judge Farnan’s remarkable career and featured speakers from the judiciary, the bar, and the community.
- From April 4, 2017 through June 11, 2017, the Delaware Chapter partnered with the District Court to present the 2017 Federal Trial Practice Seminar. The FTPS is a multi-week instructional trial practice program for lawyers with less than 10 years of practice experience who have an interest in regularly litigating in the District Court. The Seminar seeks to provide the participants with a venue in which they can practice federal trial skills and learn from experienced practitioners in order to hone

those skills and offers an opportunity for the Court to educate the participants as to what is expected of those who practice in federal court in the District.

- This summer, the FBA will hold several events for summer interns and externs from the Court and federal agencies, including the annual intern/extern luncheon. The FBA also assisted with the Court's High School Fellowship Program, which provides paid internships to local high school students in an effort to acquaint them with the work of the Court.
- In October, the Bankruptcy Court will hold its first Bankruptcy Trial Practice Seminar. Modeled after the Federal Trial Practice Seminar, the Bankruptcy Seminar is an instructional trial practice program designed for lawyers who have approximately three to six years of experience as a practicing attorney and who have an interest in regularly appearing in the Bankruptcy Court. The Seminar seeks to provide the participants with a venue in which they can practice courtroom skills and learn from experienced practitioners in order to hone those skills. It also offers an opportunity for the Bankruptcy Court to educate the participants as to what is expected of those who practice before it and enables the judges of the Bankruptcy Court to become familiar with the future leaders of the bankruptcy bar. The Seminar will feature instructional sessions on topics including Developing the Case and First Day Motions; Final Debtor-in-Possession Financing and Bidding Procedures; Sale Hearing; and Courtroom Presentation and Evidentiary Issues as well as practicums where participants can hone their skills.

It would not have been possible to present the programs detailed above without the strong and sustained support that we have received from the District Court, the Bankruptcy Court, and the federal bar. Thank you for the opportunity to serve the Delaware Chapter as President for the past two years. I look forward to working with President Farnan to continue the Delaware Chapter's 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

