

**ANNUAL REPORT
OF THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF DELAWARE
TO THE
FEDERAL BAR ASSOCIATION
2018**

**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 5
Magistrate Judge	Page 5
Bankruptcy Judges	Page 6
Clerk's Office	Page 7
Civil & Criminal Filings	Page 8
Civil Case Filings	Page 9
Patent Case Filings	Page 11
Juror Services	Page 13
Naturalization	Page 14
U.S. Bankruptcy Court	Page 15
Bankruptcy Court Case Statistics	Page 16
Delaware Chapter of the Federal Bar Association	Page 20

Statistics for this report are compiled from:

Office of Judges Programs, Statistics Division, Administrative Office of the United States Courts. *1973 - 2017 (inclusive) Annual Report of the Director: Judicial Business of the United States Courts*. Washington, D.C.: U.S. Government Printing Office, 1973 - 2017.

Office of Judges Programs, Statistics Division, Administrative Office of the United States Courts. *1973 - 2017 (inclusive) Federal Court Management Statistics*. Washington, D.C.: U.S. Government Printing Office, 1973 - 2017.

Photographs by:

Eric Crossan

INTRODUCTION

As I write, in late June 2018, much is uncertain. How long will the Phillies' record stay above .500? Will LeBron James join the Sixers and become part of The Process? Will Carson Wentz be ready by opening day to lead the Eagles in defending their Super Bowl championship? And, most especially, when will our new District Judges be confirmed?

One thing, at least, is certain. The Federal Bar Association Annual Meeting at which this Report is to be distributed will be held on Friday, July 13. That night Taylor Swift will be performing at Lincoln Financial Field in Philadelphia. (A Venn diagram of those who will be attending the FBA luncheon and those attending the concert would show an overlapping region of at least one person.)

I guess some other things are clear. In May we had our third District of Delaware Bench and Bar Conference. It was a tremendous success. Nearly 400 lawyers and judges from around the country met here to discuss topics as varied as medical marijuana, eyewitness identification, DIP financing trends, visual advocacy, and creating opportunities for younger lawyers. The dinner event at Longwood Gardens, including our own fountain show, was so special that we may never be able to top it. But, come 2020, we will try.

Since my last Report, the District of Delaware has certainly felt the effect of the Supreme Court's decision in *TC Heartland LLC v. Kraft Foods Group Brands LLC*. In the 13 months since the opinion was issued, 947 new patent cases have been filed in Delaware, including 232 ANDA (Hatch-Waxman Act) pharmaceutical patent cases. That compares to the 577 patent cases, including 197 ANDA cases, that had been filed here over the 13 months preceding *TC Heartland*. This is an overall increase of 64% in new patent cases. More particularly, it's an 88% increase in non-ANDA cases and an 18% increase in ANDA cases.

These are large additions to what was already a heavy workload. And the surge in cases has come at a particularly challenging time, when we have been down to just two active District Judges. That we have survived this situation is due in no small part to the contributions of our Visiting Judges. Over the past year, we have enjoyed the services of 15 Visiting Judges, who have together handled 366 cases for us, which is 17% of all new civil cases filed in this District in that period.

The list of Visiting Judges is long, but each of them has done so much to help us, so I want to expressly thank all of them here:



- From the Court of Appeals for the Third Circuit: Chief Judge D. Brooks Smith and Judge Kent A. Jordan
- From the Court of Appeals for the Federal Circuit: Judge Timothy B. Dyk and Judge William C. Bryson
- From the Eastern District of Pennsylvania: Chief Judge Lawrence F. Stengel and Judges Mitchell S. Goldberg, Gerald A. McHugh, and Mark A. Kearney, as well as Senior Judge Eduardo C. Robreno
- From the Middle District of Pennsylvania: Chief Judge Christopher C. Conner and Judges John E. Jones, Robert D. Mariani, Malachy E. Mannion, and Matthew W. Brann
- And last but far from least, a Visiting Judge who has taken more than 100 of our cases: Senior Judge Joseph F. Bataillon of the District of Nebraska.

As grateful as we are to the Visiting Judges, we look forward to no longer requiring their assistance. We expect and hope that, ultimately, 2018 and 2019 will be remembered as a time when we welcomed new judges. As I write, our two nominees for the vacant District Judgeships await Senate confirmation votes. We are also hopeful that the Judicial Conference of the United States will agree later this year create a new Magistrate Judge position for Delaware. If so, then by the time I report next year, we could have four District Judges and four Magistrate Judges.

While we anxiously await new colleagues, I must end this Report on the bittersweet note that we will soon be saying a fond farewell to Senior District Judge Gregory M. Sleet. It is impossible to overstate how much he has meant not just to the Court and the community, but to me personally as well.

Judge Sleet's contributions to Delaware and the federal judiciary are well-known to anyone reading this Report. Over more than two decades as a judge, he has handled over 6,400 civil cases – including 2002 patent cases – and written more than 1200 opinions. He has presided over 151 trials, including 74 patent trials (40 bench trials and 34 jury trials). These are all remarkable numbers.

Particularly meaningful to me (and Judge Andrews) is that since Judge Sleet became eligible to retire in March 2017, he has been assigned 609 new cases, including 263 new patent cases. That means, during a period in which he has essentially been working for free, he has instead handled more patent cases than the average district judge does in his or her lifetime (by a lot!).

It goes without saying that we will all miss Judge Sleet on the bench. What I will miss even more are the personal interactions I have been so fortunate to enjoy in the years we have

been on the Court together. Not once in the many times I have gone to him for advice has he failed to provide patient, generous guidance. He has not hesitated to disagree with me, and with other colleagues, but always and only from a place of honest difference of opinion and with a genuine goal of seeing the Court do the right thing.

Fortunately, while Judge Sleet's judicial tenure is nearing its completion, he is not retiring. Instead, he will be joining JAMS, where he will serve as a mediator and arbitrator.

We will have the opportunity to give Judge Sleet a proper send-off at the end of the summer. We will be back here at the Hotel du Pont on Friday, September 14 for a ceremony unveiling Judge Sleet's portrait and celebrating his judicial career. Former Attorney General Eric Holder has accepted our invitation to speak. I'm sure it will be a wonderful night and I hope many of you will join us.

Leonard P. Stark
Chief Judge

DISTRICT COURT JUDGES



Judge Gregory M. Sleet, Chief Judge Leonard P. Stark, Judge Richard G. Andrews

MAGISTRATE JUDGES



*Magistrate Judge Christopher J. Burke, 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 significant increase in civil filings for the second time since 2013. In 2017 the Court had an approximate 36.7 percent increase in overall civil case filings. The Court also experienced a 4 percent decrease in criminal filings.

The primary focus of the Clerk's Office in 2017 was the preparation for and ultimate retirement of Judge Sue L. Robinson on July 14. Losing one quarter of our authorized Article III Judges has had a significant impact on the entire court. To help cover the loss, the Court requested and received assistance from fifteen visiting judges from the Eastern and Middle Districts of Pennsylvania, the District of Nebraska, the Third Circuit Court of Appeals and the Federal Circuit Court of Appeals. The Clerk's Office has done an exemplary job accommodating the visiting judges and their individual practices, not to mention adjusting case assignments, court schedules and coverage, docketing and case management, and working with the parties in the cases. The visiting judges have been a tremendous help to the Court and their assistance will only increase this year as Judge Gregory M. Sleet plans to retire at the end of September. We are hopeful that Judge Robinson's and Judge Sleet's replacements will be onboard quickly. Until that time we look forward to the continued assistance of the visiting judges.



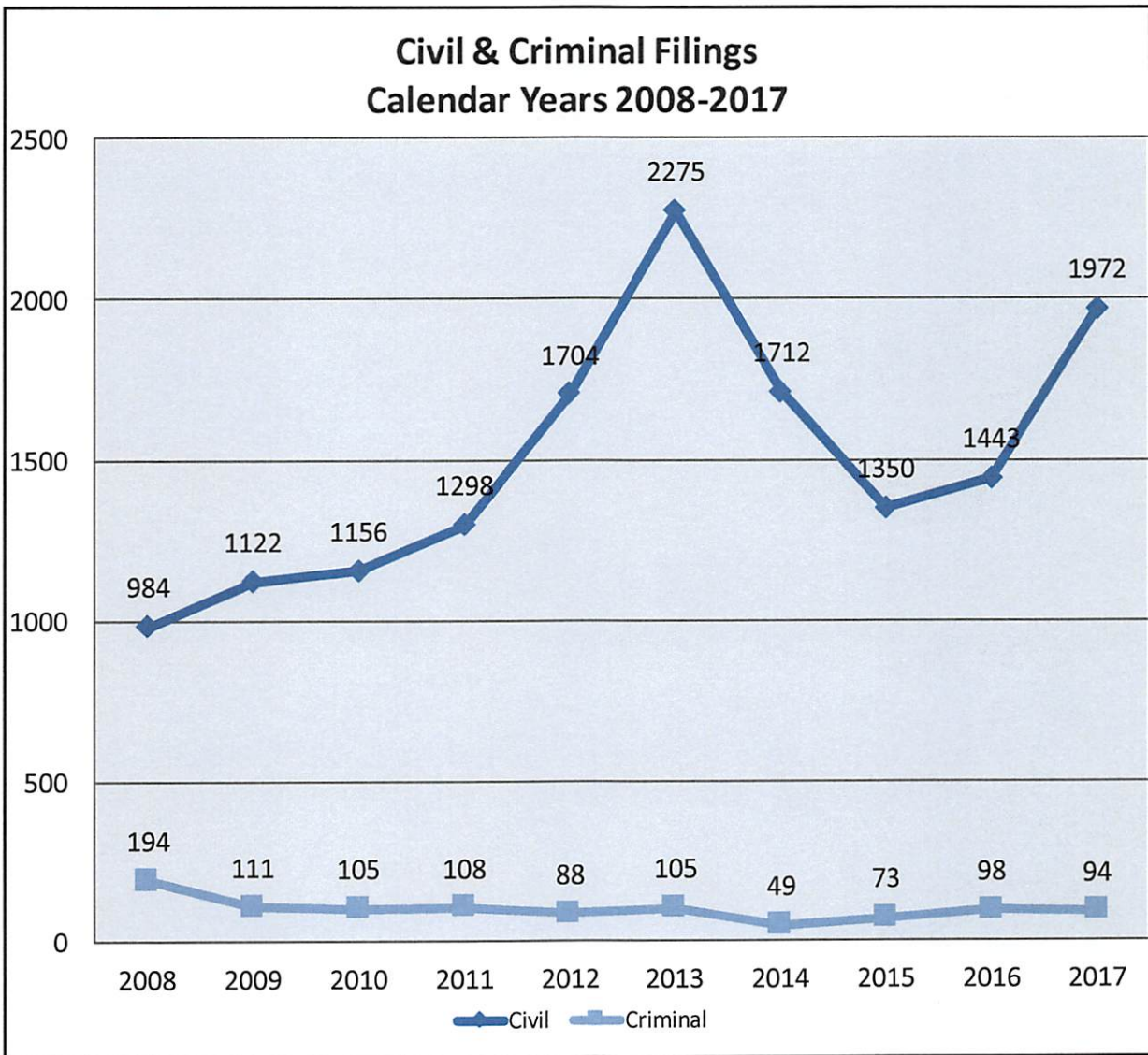
As with last year, IT security continues to have a broad impact on the Court's operations. The Courts are not immune to the attacks from outside sources attempting to hack data from our systems. The Administrative Office of the U.S. Courts has implemented strict processes and procedures to safeguard our data and systems. None of which comes without a cost in hardware software and most importantly human resources. The expertise needed to stay ahead of the threat is significant. Rest assured that we are meeting and exceeding the challenge to keep our data and systems safe.

Respectfully submitted,

John A. Cerino
Clerk of Court

CIVIL AND CRIMINAL FILINGS

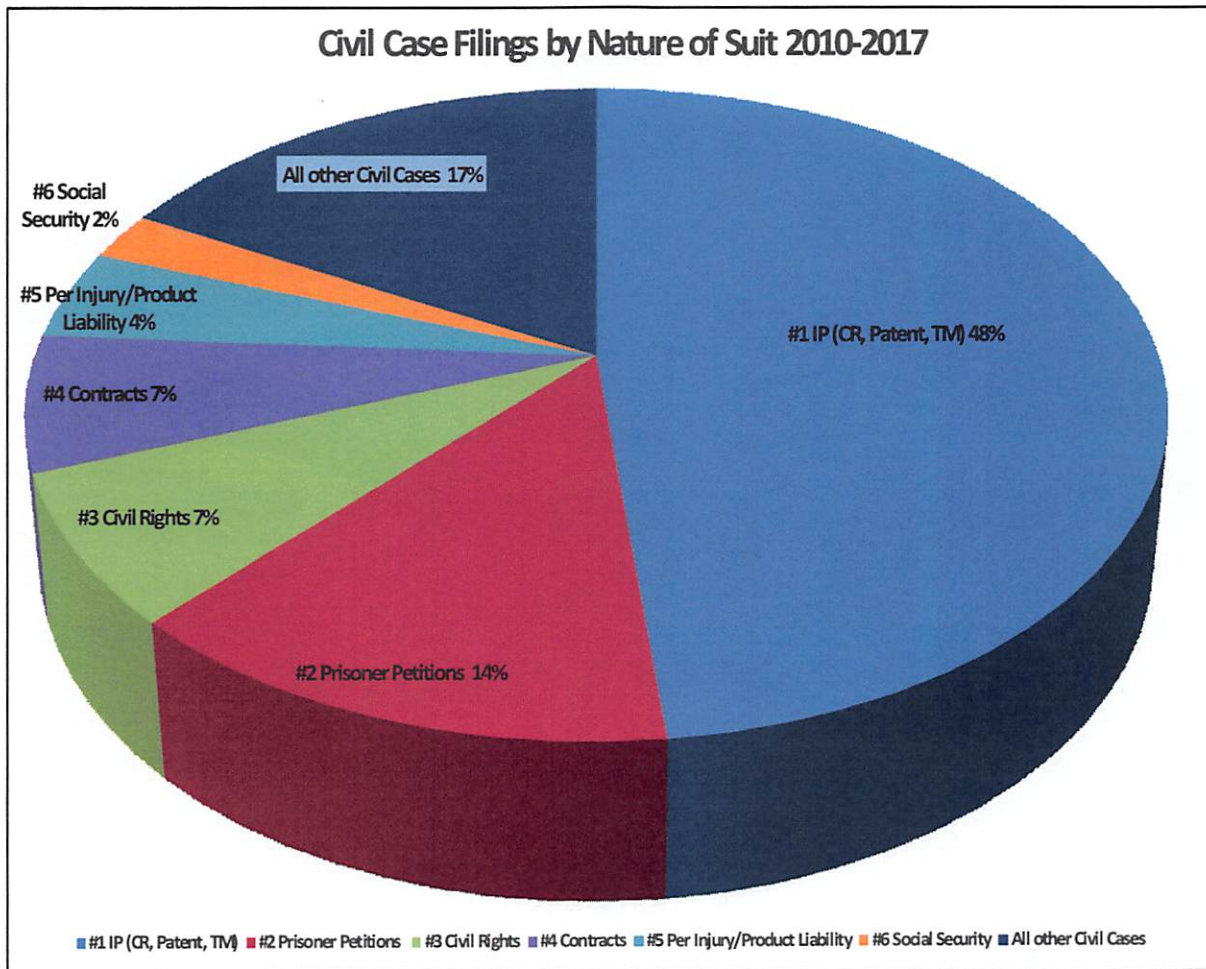
The following graph shows civil and criminal filing trends from 2008 to 2017. Civil case filings made a significant increase in 2017 for the second time in the past three years. In 2017, a total 1,972 civil cases were filed, a 36.7 percent increase from the previous year of 1,443 cases filed. Criminal case filings decreased from 98 in 2016 to 94 in 2017, a 4 percent decrease from the previous year.



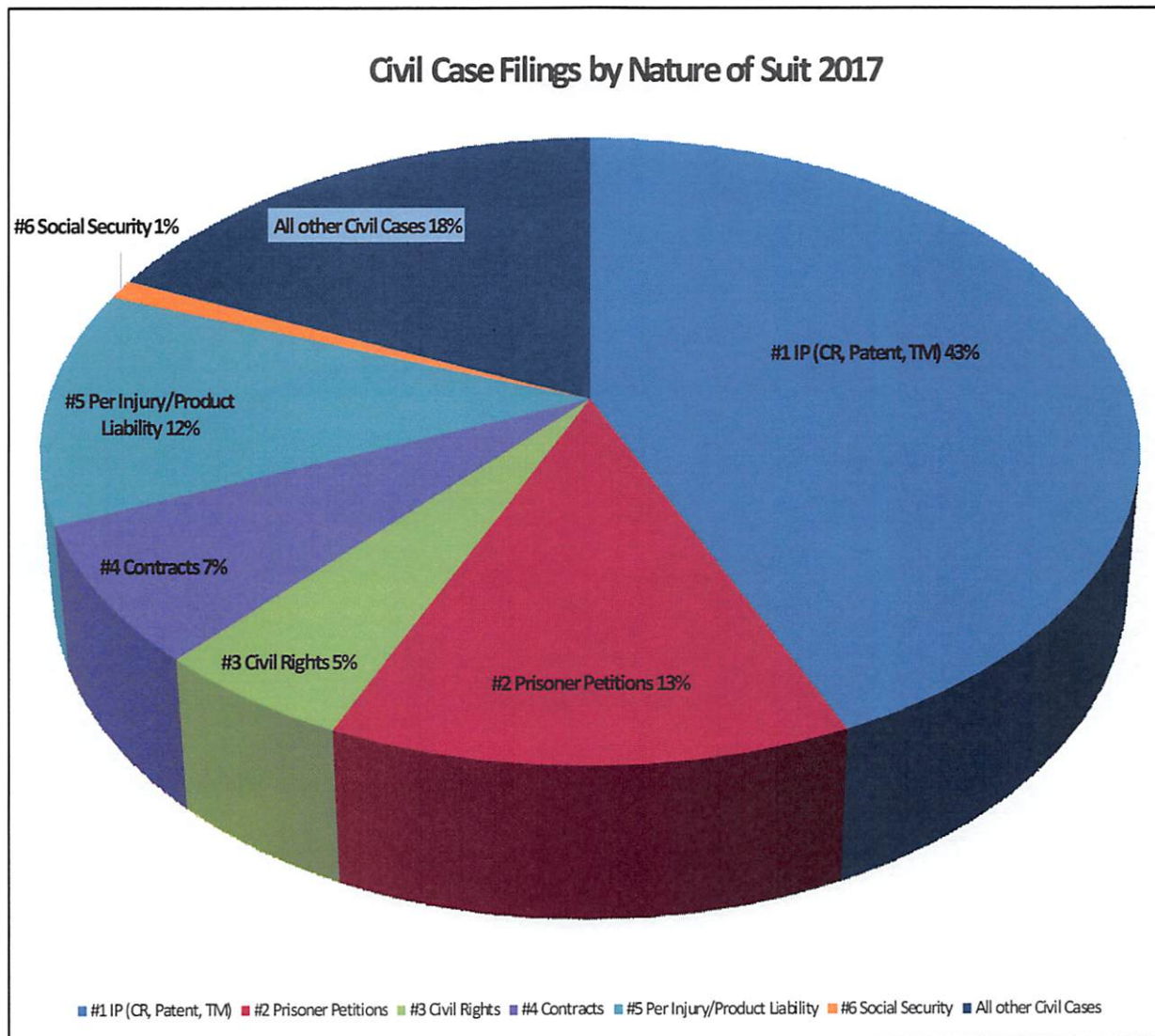
CIVIL CASE FILINGS

The two graphs that follow represent the highest six types of civil cases filed in the District since 2010, 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 calendar years from 2010 through 2017. Patent cases account for 48 percent of civil filings, Prisoner Petitions 14 percent, Civil Rights 7 percent, Contracts 7 percent, Personal Injury / Product Liability 4 percent and Social Security 2 percent. All Other Civil Cases accounted for 17 percent of the civil filings.



The second graph displays total civil filings for calendar year 2017 by the top nature of suit categories. Patent cases account for 43 percent of civil filings, Prisoner Petitions 13 percent, Civil Rights 5 percent, Contracts 7 percent, Personal Injury / Product Liability 12 percent, and Social Security 1 percent. All Other Civil Cases accounted for 18 percent of the total civil filings.

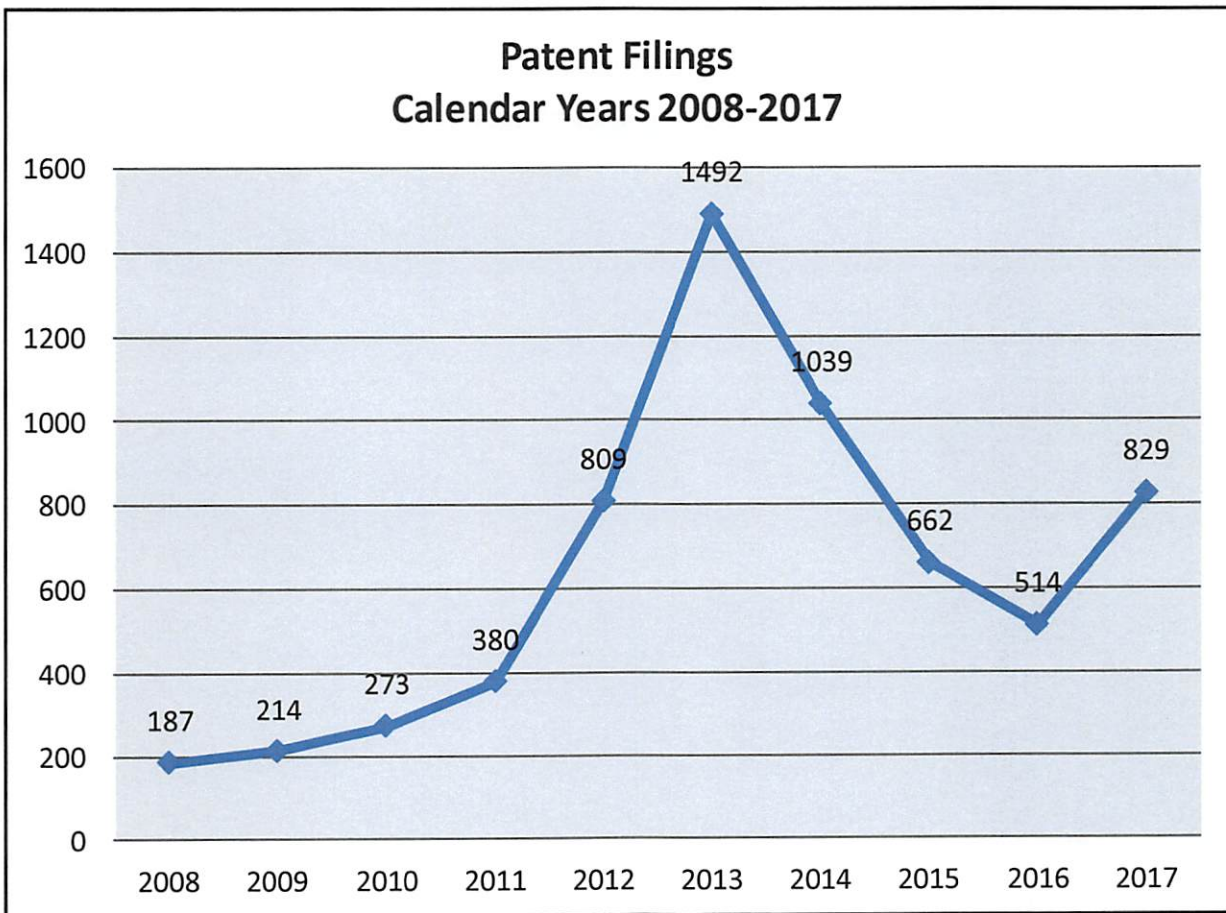


PATENT CASE FILINGS

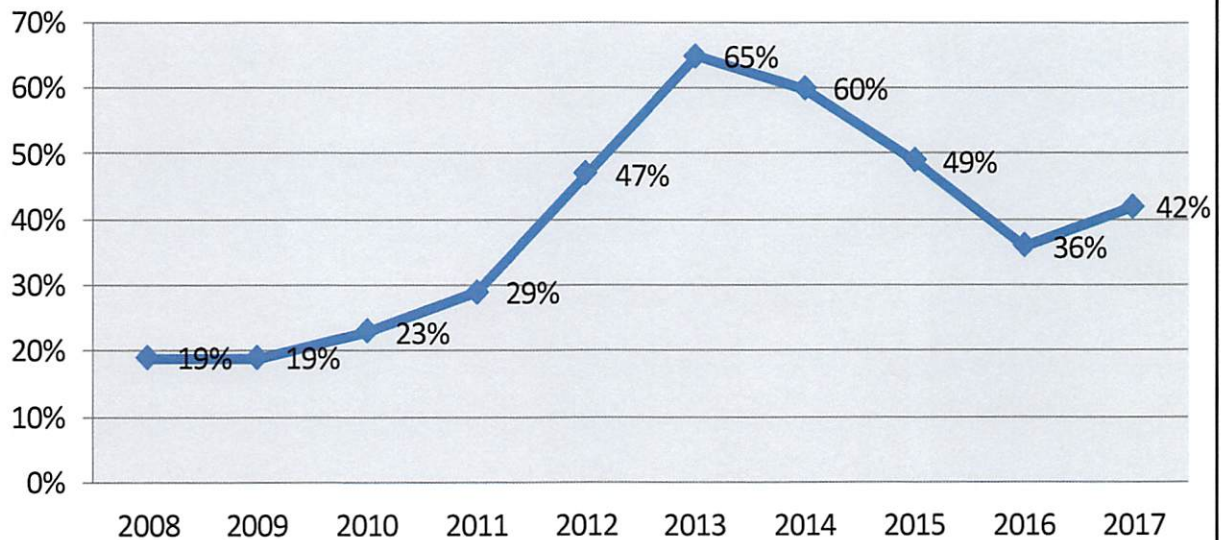
Patent filings continue to be a substantial part of the District Court's caseload. The first graph details the annual number of filings during the period from 2008-2017. In 2017, 829 patent cases were filed, approximately a 61.4 percent increase from the previous year of 514.

The second graph shows the increase of patent filings as a percentage of total caseload, which increased 18 percent from 36 percent in 2016 to 42 percent in 2017.

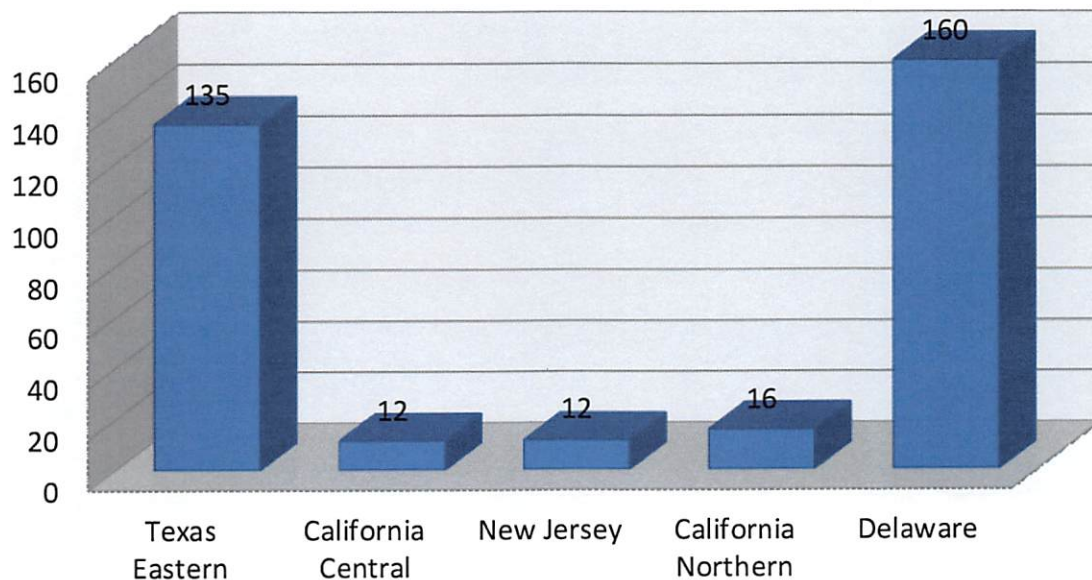
For the past decade, Delaware has ranked in the top five district courts for patent filings in the nation. The third graph displays the cumulative average of patent filings per authorized judgeship from 2008 to 2017. During those years, Delaware averaged 160 patent cases filed per authorized judgeship. In 2017 Delaware again regained the top position for the number of patent cases filed per authorized judgeship of 207 cases. A 62 percent increase from the previous year of 128 cases. Nationally, this ranks Delaware 88.5 percent higher than the second position nationally and 1,280 percent higher than the third position.



Patent Filings as a Percentage of Civil Caseload Calendar Years 2008-2017



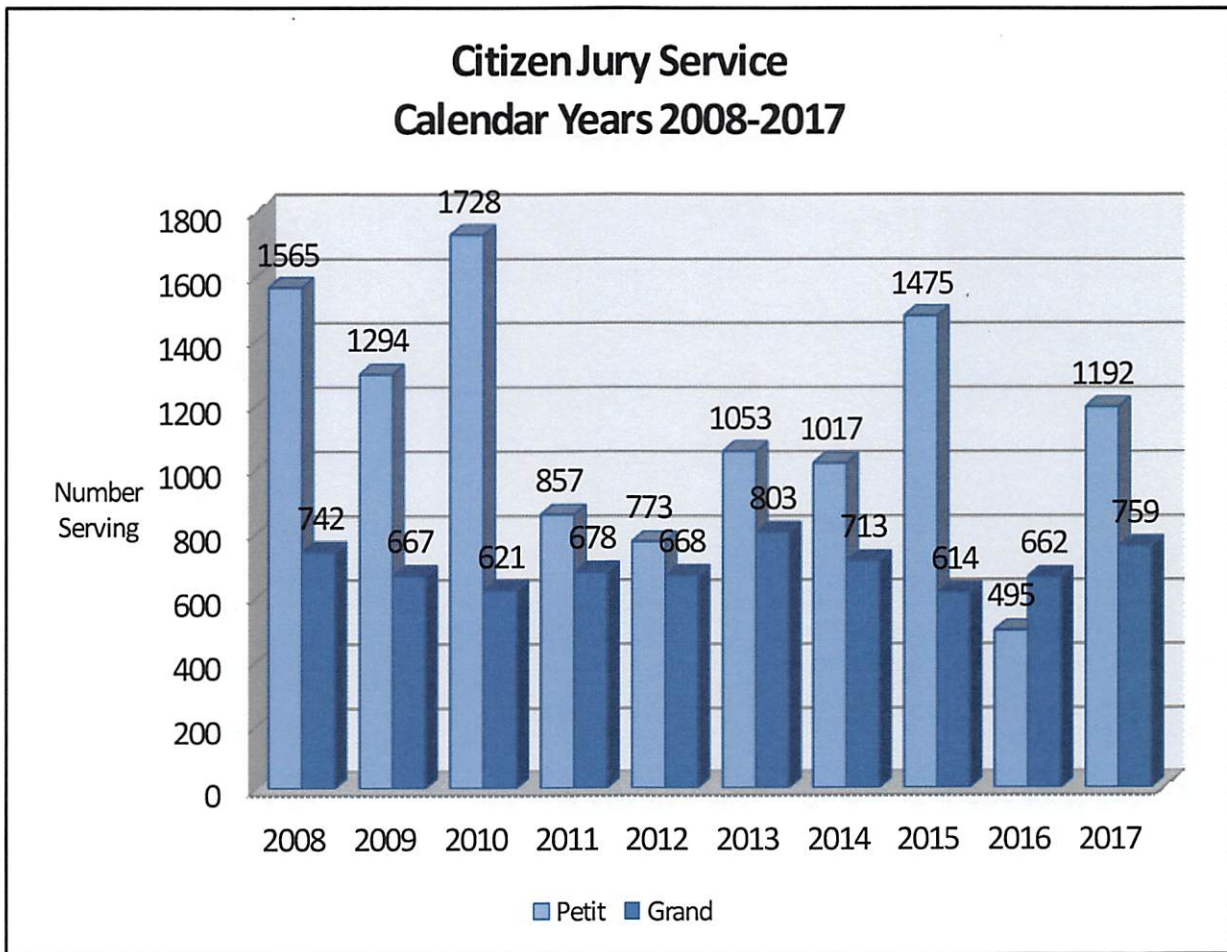
Average Patent Cases Per Judgeship Calendar Years 2008-2017



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 2017, the total number of citizens who reported for petit jury duty was 1192, compared to 2016, when 495 reported. Service on grand juries increased slightly in 2017 to 759 citizens reporting compared to 2016, when 662 citizens reported for service.

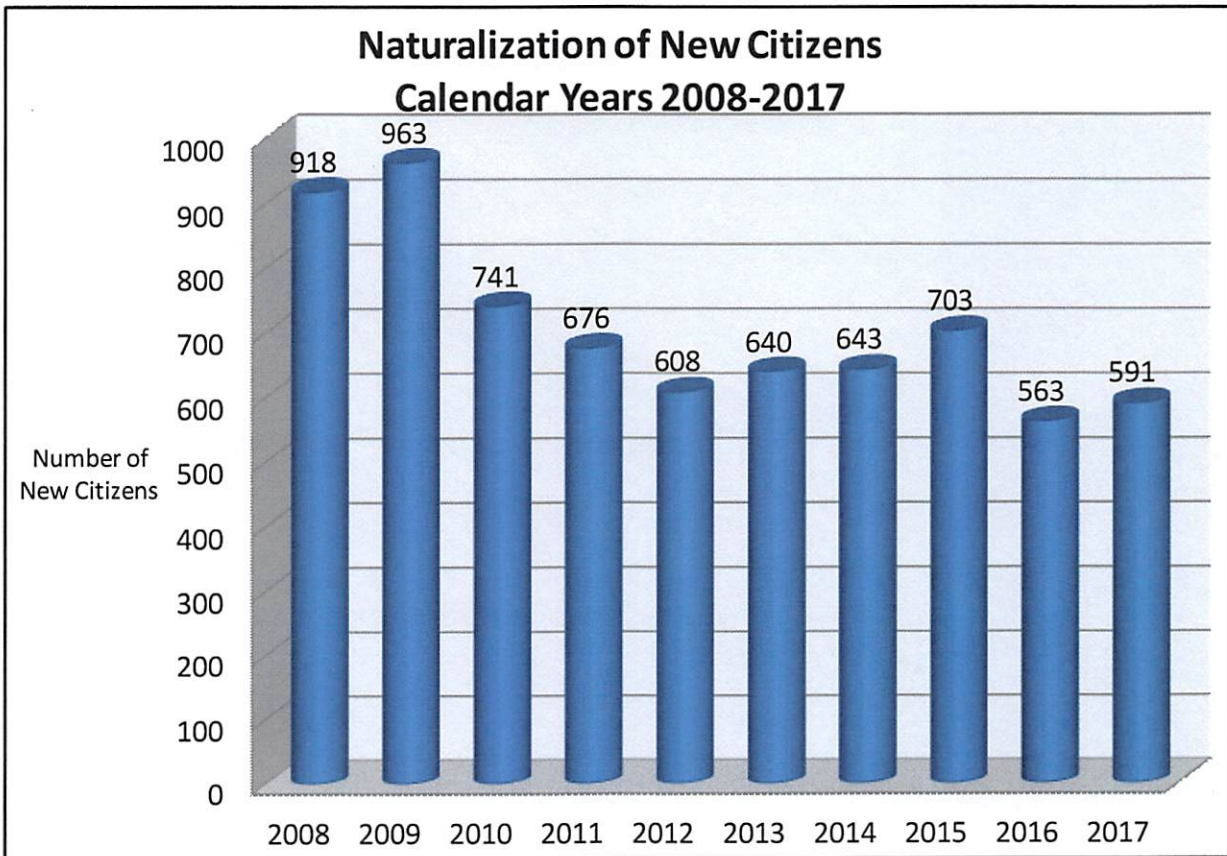


NATURALIZATION

The Judges of the District Court of Delaware view the naturalization of new citizens as an important and rewarding duty. In 2017, a total of 591 new citizens were naturalized compared to 563 in the previous year.

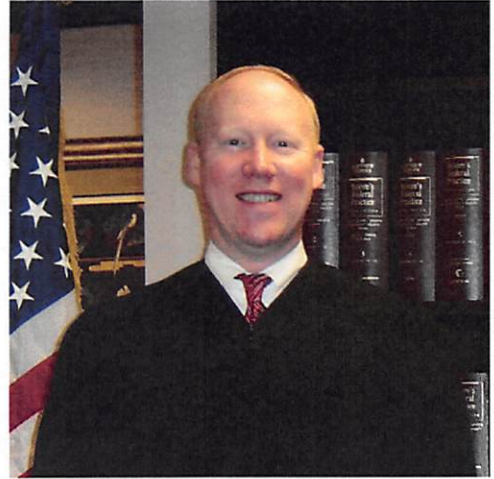
The United States Bureau of Citizenship and Immigration Service is responsible for preparing and processing the file for each new citizen. The District Court is responsible for conducting naturalization ceremonies, during which the Oath of Allegiance is administered. Since September 1993, Magistrate 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 2017, 320 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.

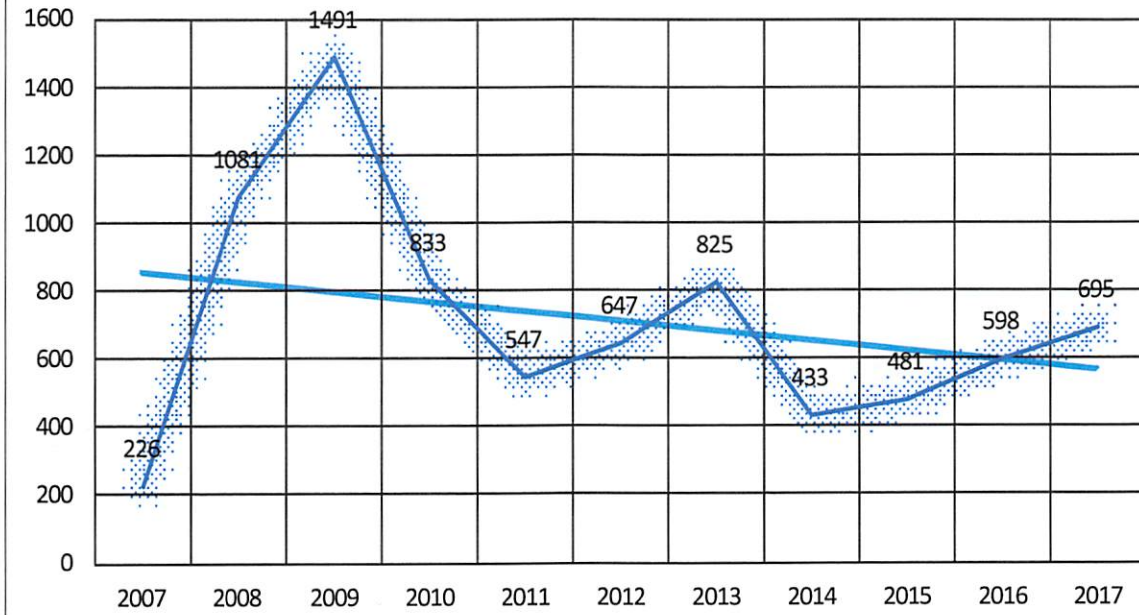


The United States Bankruptcy Court for the District of Delaware has a total of six judges. In October of 2017, Congress passed and President Trump signed legislation creating, inter alia, two additional bankruptcy judgeships (for a total of 8 authorized judgeships) for the District of Delaware. The District 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.

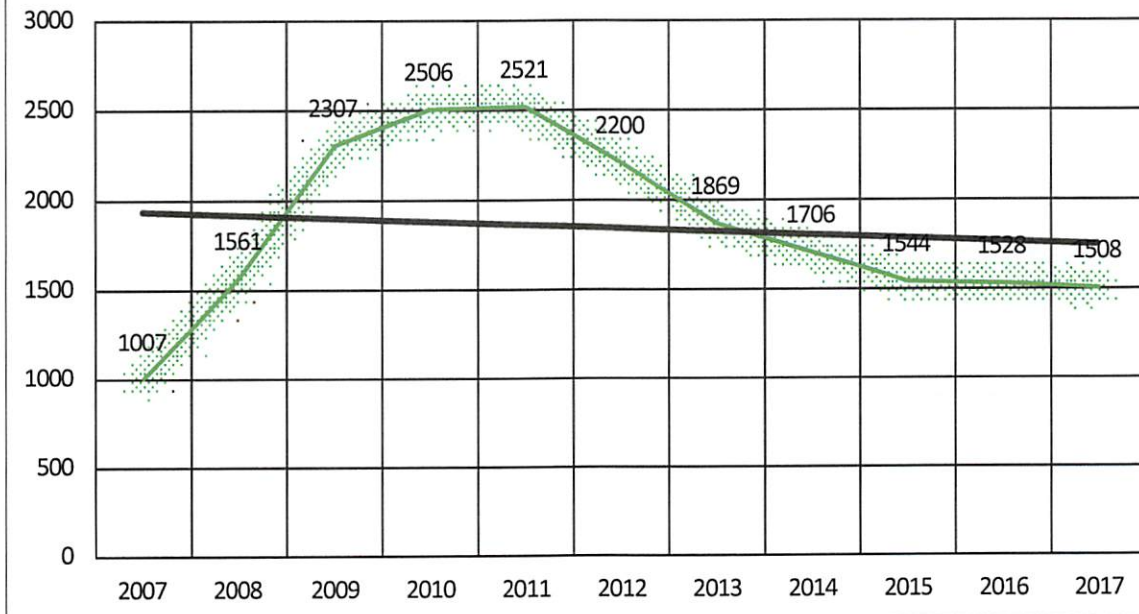
Brendan Linehan Shannon
Chief Bankruptcy Judge

BANKRUPTCY COURT STATISTICS

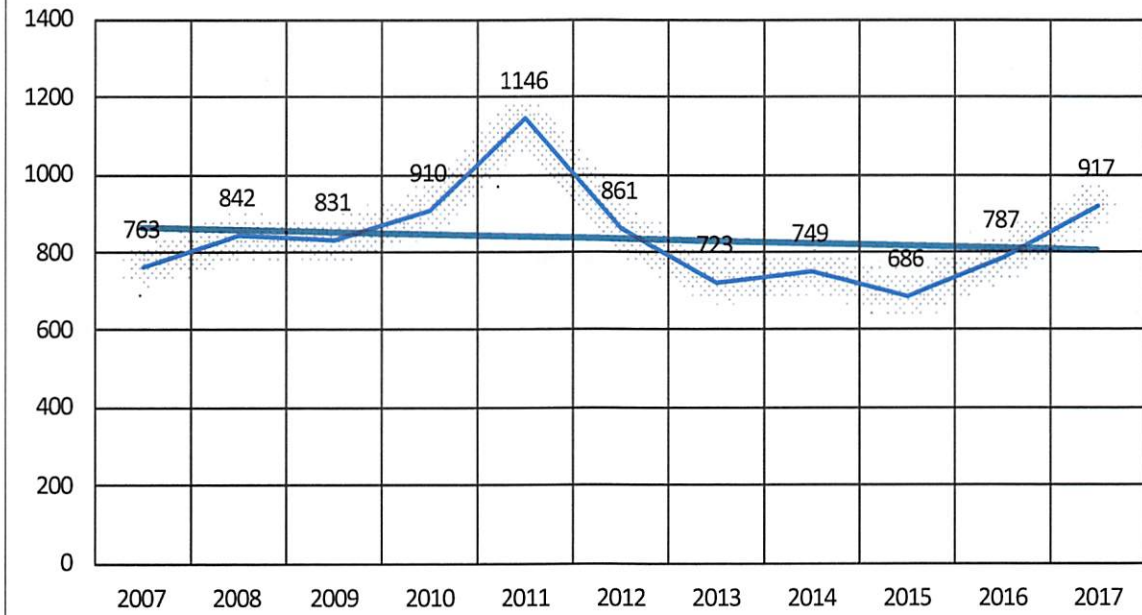
Chapter 11 Case Filings for Calendar Years 2007 to 2017



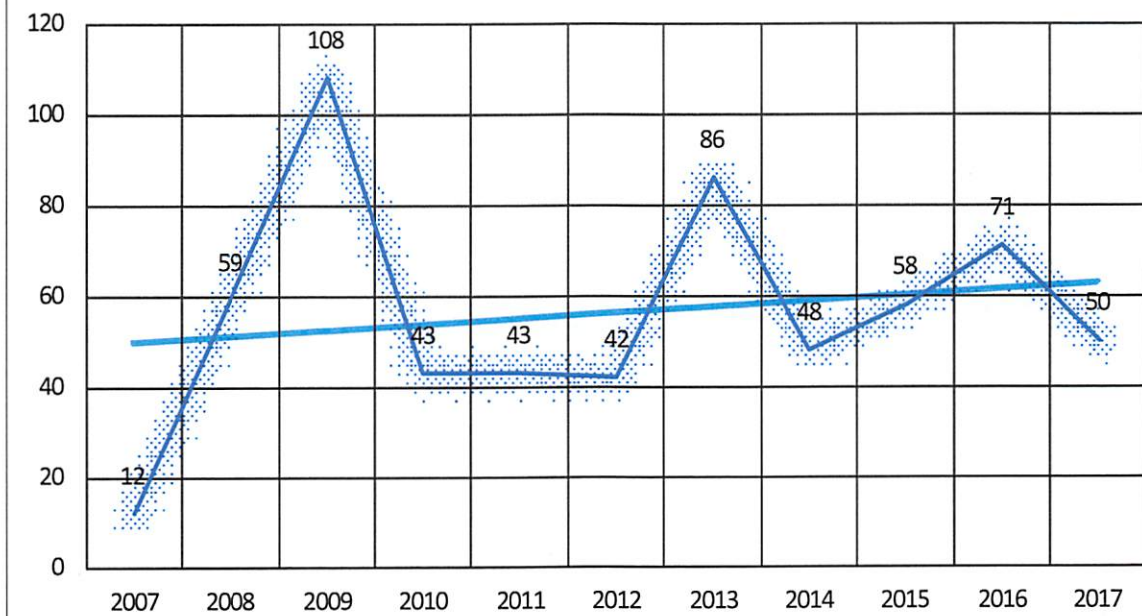
Chapter 7 Case Filings for Calendar Years 2007 to 2017



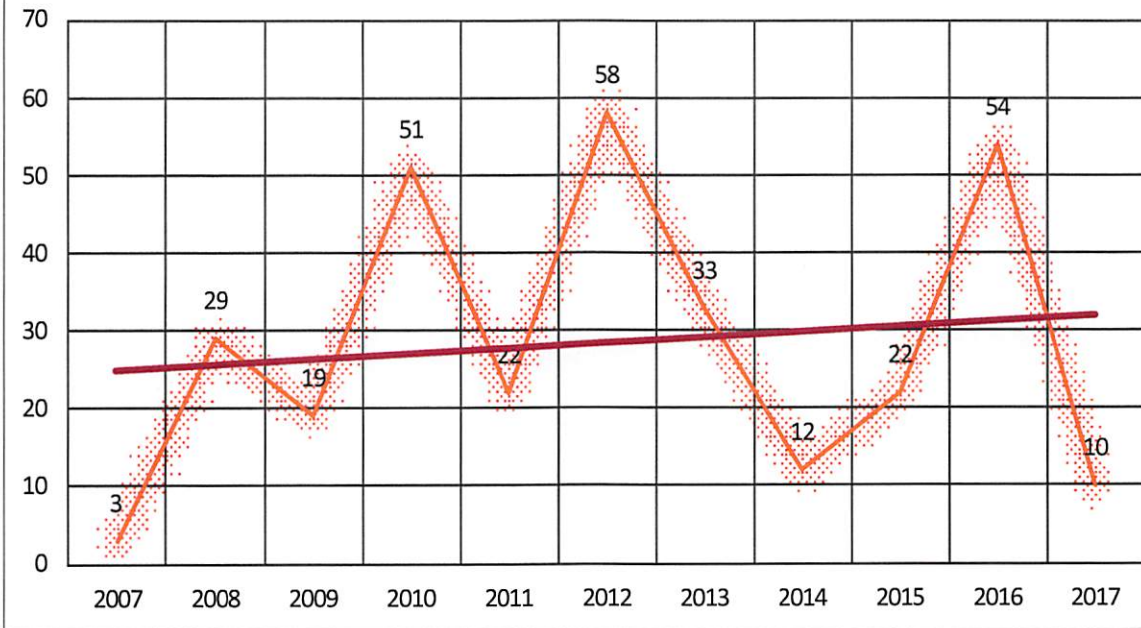
Chapter 13 Case Filings for Calendar Years 2007 to 2017



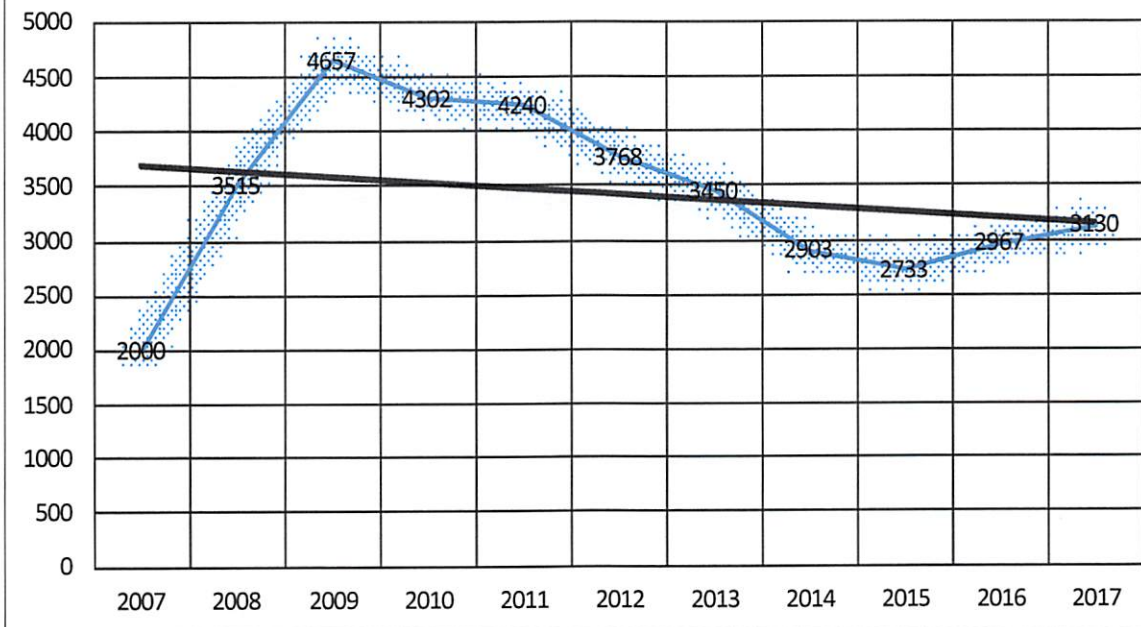
Mega Case Filings for Calendar Years 2007 to 2017



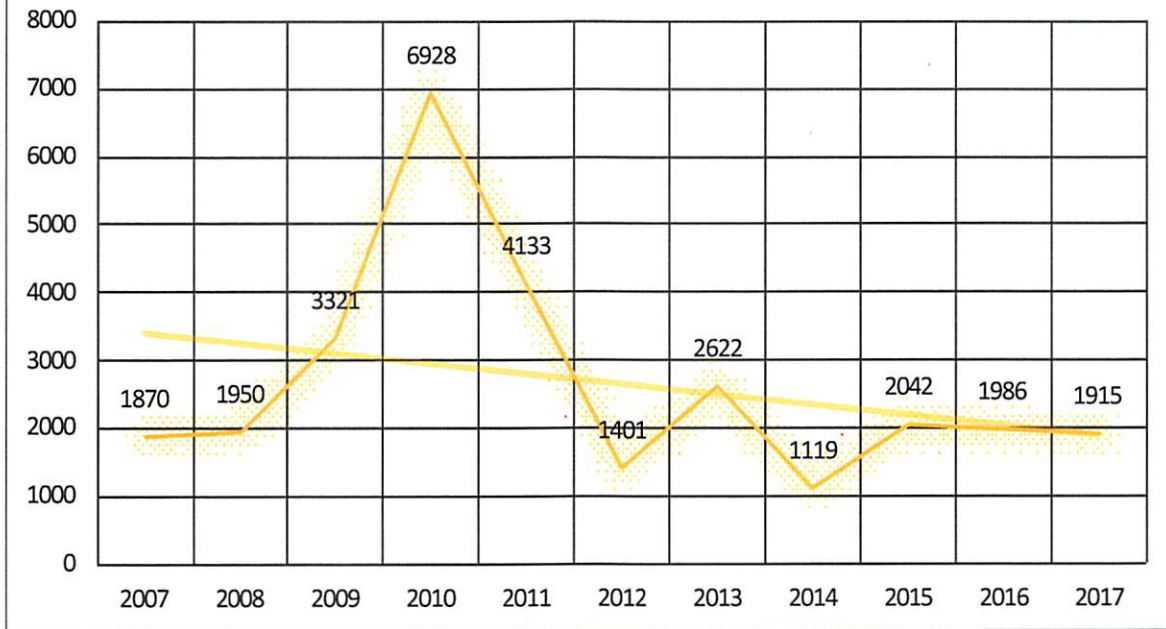
Chapter 15 Case Filings for Calendar Years 2007 to 2017



All Case Filings for Calendar Years 2007 to 2017



Adversary Case Filings for Calendar Years 2007 to 2017



THE DELAWARE CHAPTER OF THE FEDERAL BAR ASSOCIATION

The Delaware Chapter of the Federal Bar Association (the “Delaware Chapter”) had another exciting and successful year. With the support of Chief Judge Stark, Chief Judge Shannon and the District and Bankruptcy Courts, we were able to offer another year of great programming and opportunities for the bench to interact with the Court.

We began our year celebrating Judge Robinson’s retirement and honoring her distinguished career on the Court. It was a great night to honor such a distinguished member of the Court. Judge Robinson presented her official portrait to the Court, which now hangs in Chief Judge Stark’s courtroom, and wowed us all with a musical number recapping her career on the Court.

We continued our series of “brown bag” lunches, hosting lunches with all of the Magistrate Judges as well as Judge Bataillon, a Visiting Judge from the District of Nebraska. In October, we sponsored a CLE from our Federal Civil Panel Section, offering tips to attorneys who take appointments from the Court’s Federal Civil Panel. In December, the Intellectual Property Section continued its tradition of hosting an IP Dinner.

The Delaware Chapter also partnered with the Federal Circuit Bar Association and the Third Circuit Bar Association to bring additional CLE programming to Delaware. In September, the Delaware Chapter and the Federal Circuit Bar Association hosted a seminar on Patent Litigation, featuring local and national practitioners and Judges from the District of Delaware, the Federal Circuit and the Patent Trial and Appeal Board. In January, the Delaware Chapter and the Third Circuit Bar Association presented a CLE on Appellate Advocacy with presentations from several Third Circuit Judges.

The Delaware Chapter continued its work supporting the training of younger lawyers. For the first time, the Bankruptcy Court, under the leadership of Judge Gross and Curtis Miller, held a Bankruptcy Trial Practice Seminar. Building on the success of the District Court’s Federal Trial Practice Seminar, the Bankruptcy Court offered a bankruptcy-focused seminar. In addition, the Delaware Chapter sponsored an attendee at the Federal Bar Association’s Rising Professionals Symposium and we hope to sponsor another attendee this year.

Of course, the highlight and focus of this year was the 2018 Bench and Bar Conference held in May. The Bench and Bar Conference featured general interest panels as well as specialized tracks on bankruptcy, criminal law, employment law and intellectual property. We were honored to have over thirty Judges from District and Appellate courts around the country join us, as well as a number of distinguished speakers. We treated our guests to an evening at Longwood Gardens on Thursday night and it was surely the highlight of the Conference. We look forward to the next Bench and Bar in 2020!

Finally, we could not provide a complete update of the Delaware Chapter’s year without

mentioning the untimely passing of William Marsden. William was an avid supporter of the Delaware Chapter and was a regular attendee at our events. While he was Managing Principal of the Delaware office of Fish & Richardson, he encouraged participation in the Delaware Chapter's events by all attorneys in his office. As his colleagues at Fish & Richardson so eloquently stated, "William was the kind of lawyer we all should strive to be: a zealous advocate for his client, and yet a courteous and respectful opponent; a hard worker who believed and taught that family must come first; the man who stepped forward to be accountable when things did not go well, and who was content to stay back and ensure others got credit for the many victories in which he played so great a part." William was an example of the very best the Delaware Chapter has to offer and we greatly miss his presence.

As we look forward to another year, we will continue to offer events that bring the bench and the bar together to exchange ideas and learn from each other. We will celebrate Judge Sleet's distinguished career on the Court as he transitions to retirement and again sponsor the Federal Trial Practice Seminar.

In closing, I would like to thank the Judges of both the District and Bankruptcy Courts for their incredible support of the Delaware Chapter. Without their support, many of these programs would not be possible. I would also like to thank our two most recent past Presidents, Rocky Kravetz and Steve Braerman, who continue to assist with our events and Andrew Mayo, Jeremy Tigan and Jeff Castellano, the current Executive Board Members who have devoted countless hours to the Delaware Chapter this year.

We welcome any suggestions you have for programs and look forward to seeing you at Delaware Chapter events!

Respectfully,

Kelly E. Farnan, Esq.
President, Delaware Chapter of the Federal Bar Association