



Hon. Catherine Peek McEwen
Receives NCBJ Public Outreach Award
By: Chief Judge Caryl E. Delano

One of the things I enjoy most about being the chief bankruptcy judge in the Middle District is the opportunity to brag about the incredible work being done by our judges. Today, I am delighted to shine the spotlight on our own Judge Catherine Peek McEwen.

Last summer, the National Conference of Bankruptcy Judges announced its solicitation for nominations for the NCBJ's 2021 Public Outreach Award. Almost immediately, our judges decided to nominate Judge McEwen, and before we could make the nomination, Chief Judge Laurel Isicoff of the Southern District and Chief Judge Karen Specie of the Northern District contacted me with the same suggestion.

In choosing a recipient of the Public Outreach Award, the selection committee considered the extent to which the nominee's public outreach activities have had a significant impact in the community; have involved, increased the profile of, or positively affected the bankruptcy courts and the federal courts generally; and have demonstrated a commitment to volunteerism and community service. Those of you

who know Judge McEwen know that she is the personification of these considerations.

Judge Isicoff, Judge Specie, and I, on behalf of the judges of the Middle District, drafted a letter nominating Judge McEwen in which we described her many public service and public outreach activities. To *very* briefly summarize, Judge McEwen:

- Helped establish the C.A.R.E. program in the Tampa Division of our Court and has served on C.A.R.E.'s National Advisory Board for many years;
- Personally wrote, directed, and promoted a professionally produced *Bankruptcy Basics* video (featuring Tampa judges, court staff, and attorneys, and narrated by a local television news anchor). *Bankruptcy Basics* has been translated into multiple languages and is endorsed by the Administrative Office of the United States Courts. By October 2008, over 92,000 people had watched the video on the AO's website;
- Currently serves as the Co-Chair of The Florida Bar's Standing *Pro Bono* Legal Services Committee;
- Started the Tampa Division's *Pro Bono* Bankruptcy Clinic;
- Has sponsored numerous judicial education summits to educate her state and federal judicial colleagues on how they can encourage and contribute to public service;
- Obtained a Diversity Grant from the Federal Bar Association's Foundation and organized a program titled *Pathway to the Bankruptcy Bench: Building a Pipeline*. The program mirrored a program offered by the Judicial Conference of the United States' Committee on the Administration of the Bankruptcy System;
- Currently serves as the Judicial Chair of the Business Law Section of the Florida Bar's Bankruptcy/UCC Committee and on the Section's Diversity Fellowship Program;
- Served, from 2017 to 2019, as the Observer at the Judicial Conference of the United States (appointed by Chief Justice John G. Roberts, Jr.);
- Currently serves on the Judicial Conference's Advisory Committee on Bankruptcy Rules (again appointed by Chief Justice Roberts);
- Teaches Sunday School classes at her parish church and regularly volunteers her time at several charities that provide assistance to the underprivileged; and

- Serves as a softball coach for seven- and eight-year-old girls at Bayshore Little League (her favorite extracurricular activity).

Many organizations—too many to mention here—have recognized Judge McEwen’s years of extraordinary service to the local Tampa community, to the State of Florida, and to the legal profession. Perhaps no award is more prestigious than the Florida Supreme Court’s inaugural *Chief Justice’s Distinguished Federal Judicial Service Award*, which was awarded to Judge McEwen in 2016 in recognition of her tireless commitment to *pro bono* service.

Judge McEwen’s colleagues—Judge Karen Jennemann, Judge Michael Williamson, Judge Lori Vaughan, Chief Judge Laurel Isicoff, and Father C. Timothy Corcoran, III (U.S. Bankruptcy Judge, Ret.)—and I were delighted to be in attendance when she was named as the recipient of the National Conference of Bankruptcy Judges’ 2021 Public Outreach award at its annual conference on October 6, in Indianapolis.

Please join me in congratulating Judge Catherine Peek McEwen on this well-deserved recognition for her many years of public service.



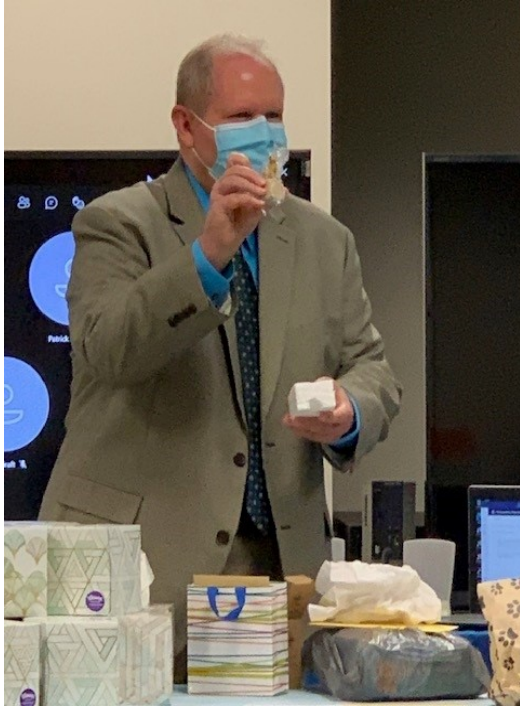
Hon. Cynthia C. Jackson Retires



By: Chief Judge Caryl E. Delano

On August 12, 2021, due to health reasons, the Honorable Cynthia Carson Jackson retired as a bankruptcy judge of the United States Bankruptcy Court for the Middle District of Florida.

Judge Jackson was appointed as a bankruptcy judge by the Eleventh Circuit Court of Appeals on March 5, 2013. She presided in the Orlando Division until February 2020, when she transferred to the Jacksonville Division. My colleagues and I are all saddened that Judge Jackson was unable to complete her term, and we miss her contributions to our Court. We are arranging for her portrait, which, upon its completion, will be hung in the Jacksonville Courthouse.



Happy Retirement!

Ray Readdick Retires

On August 31, 2021, the Jacksonville Division bid a fond farewell to Ray Readdick, Judge Funk's Courtroom Deputy. Ray began with the Court in March 1999 as a case manager and transitioned to a CM/ECF trainer in 2004.

In 2006, Ray became Judge Funk's courtroom deputy. Ray was a delight and was beloved by both his colleagues and the bar. He was conscientious and diligent and always conducted himself with the utmost professionalism.

While Ray's retirement gathering was a celebration, it was also filled with many tears at the thought of Ray no longer being a part of our team.

We will miss Ray, but we wish him the best in his future endeavors. After having worked for over fifty years, Ray deserves to relax!



Reminder for Attorneys: Duty to Designate Inventory Attorney

**“Hope for the best, but prepare for
the unexpected.”**

No one wants to imagine that an unexpected catastrophe could lead to a life-changing event. But, to protect the system of justice and the people it serves, The Florida Bar Rules provide that all attorneys who practice law in Florida must designate an inventory attorney in the event of their suspension, disbarment, death, or other circumstance. The entire rule is below, and you may click [here](#) for information on how to appoint an inventory attorney and for the necessary forms.

Rules Regulating the Florida Bar Rule 1-3.8 Right to Inventory

(a) Appointment; Grounds; Authority. Whenever an attorney is suspended, disbarred, becomes a delinquent member, abandons a practice, disappears, dies, or suffers an involuntary leave of absence due to military service, catastrophic illness, or injury, and no partner, personal representative, or other responsible party capable of conducting the attorney’s affairs is known to exist, the appropriate circuit court, upon proper proof of the fact, may appoint an attorney or attorneys to inventory the files of the subject attorney (hereinafter referred to as “the subject attorney”) and to take such action as seems indicated to protect the interests of clients of the subject attorney.

(b) Maintenance of Attorney-Client Confidences. Any attorney so appointed shall not disclose any information contained in files so inventoried without the consent of the client to whom such file relates except as necessary to carry out the order of the court that appointed the attorney to make the inventory.

(c) Status and Purpose of Inventory Attorney. Nothing herein creates an attorney and client, fiduciary, or other relationship between the inventory attorney and the subject attorney. The purpose of appointing an inventory attorney is to avoid prejudice to clients of the subject attorney and, as a secondary result,

prevent or reduce claims against the subject attorney for such prejudice as may otherwise occur.

(d) Rules of Procedure. The Florida Rules of Civil Procedure are applicable to proceedings under this rule.

(e) Designation of Inventory Attorney. Each member of the bar who practices law in Florida shall designate another member of The Florida Bar who has agreed to serve as inventory attorney under this rule; provided, however, that no designation is required with respect to any portion of the member's practice as an employee of a governmental entity. When the services of an inventory attorney become necessary, an authorized representative of The Florida Bar shall contact the designated member and determine the member's current willingness to serve. The designated member shall not be under any obligation to serve as inventory attorney.



UNITED STATES TRUSTEE'S CORNER

By: Jill Kelso, Orlando Office
of the U.S. Trustee

UNITED STATES TRUSTEE PROGRAM INFORMATIONAL NOTICE

The United States Trustee Program provides the following informational notice regarding emergency rental assistance programs.

EMERGENCY RENTAL ASSISTANCE PROGRAMS

If you are a renter having trouble paying your rent or a landlord who has lost rental income due to challenges presented by the COVID-19 pandemic, help may be available. Through funding from the U.S. Department of the Treasury's Emergency Rental Assistance (ERA) program, there are a wide variety of state and local programs that offer assistance—including financial assistance—to those who are struggling to make ends meet.

Provided below are links to learn more about ERA programs in your local area, including how they work and who is eligible, as well as other important information to help you navigate these difficult times. ERA programs can vary based on locale since flexibility is given to states to develop programs that best suit the needs of their communities.

For more general information on assistance programs, visit:

<https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>

For ERA program links in your local area, visit:

<https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/find-help-with-rent-and-utilities/>

To get answers to frequently asked questions, visit:

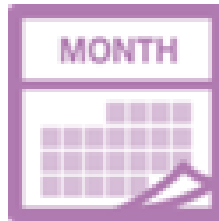
For Renters: <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/emergency-rental-assistance-for-renters/>

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October 2021

For Landlords: <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/help-for-landlords/>

To talk with a no-cost Department of Housing and Urban Development-approved housing counselor who can help you understand your options, make an action plan, and even help you apply for rental assistance, call [\(800\) 569-4287](tel:8005694287) or visit <https://www.consumerfinance.gov/find-a-housing-counselor/>.

September 2021



Upcoming Events Around the District
November 2021 – January 2022

- | | |
|---------------------------|--|
| November 3
12:00 p.m. | Luncheon in Honor of Hon. Jerry A. Funk
<i>The River Club, Jacksonville</i> |
| November 9
12:00 p.m. | TBBBA Monthly CLE Luncheon |
| November 17
12:00 p.m. | SWFLBPA – Fundamentals of Filing Accurate Tax Returns
featuring Karen L. Russell, Internal Revenue Service
<i>Zoom</i> |
| November 18
12:00 p.m. | CFBLA – Emerging Issues in Subchapter V Panel, Pt. II
moderated by Daniel Velasquez
<i>Zoom</i> |
| December 7
12:00 p.m. | TBBBA Monthly CLE Luncheon |
| January 20 | Bankruptcy Law & Practice: View from the Bench
Tampa, FL |
| January 21 | Bankruptcy Law & Practice: View from the Bench
Miami, FL |
| January 26 – 29 | Florida Bar Winter Meeting
<i>Rosen Shingle Creek, Orlando</i> |



Central Florida Bankruptcy Law Association, Inc.
Third Quarter News 2021

CFBLA is continuing to host its monthly CLEs virtually on Zoom. On September 16, 2021, CFBLA presented a panel discussion with Chapter 13, Chapter 7, and Subchapter V Trustees, moderated by CFBLA board member Camille Sebreth, titled “The Good, the Bad, and the Future – Trustee Issues in Bankruptcy.” And on November 18, 2021, CFBLA will host Part II of its panel discussion on “Emerging Issues in Subchapter V,” which will be moderated by Daniel Velasquez.

CFBLA plans to resume in-person monthly meetings in January 2022. We look forward to seeing you at these great upcoming programs!



TBBBA PRESIDENT'S MESSAGE

By: Noel Boeke, Esquire

When I initially wrote this message over a month ago, we thought Remote Reality was thankfully coming to an end. Such an extraordinary time we have lived in over the last 18 months! These months in the Remote Reality have been so out of the ordinary, so strange, and so very uncommon. Uncommon times that call for uncommon fortitude, invention, and thinking. A big salute to Kathleen DiSanto and all the TBBBA board members, speakers, and other volunteers who kept the TBBBA humming along with Zoom events. And thank goodness we were able to start this summer off with an in-person happy hour at Ulele hosted by Anthony & Partners and then host the annual Past Presidents' reception at the Columbia. Unfortunately, in light of the rapid spread of the COVID-19 Delta variant, we have again postponed the already postponed Annual Dinner scheduled for August 26th. Stand by for word about future live or remote events.

These uncommon times, naturally, got me thinking about our own uncommon calling, or rather, our calling to be uncommon. I would argue that none of us is called to be average. The center of the bell curve is not our destiny. Not at all. We members of the bankruptcy bar are meant to be extraordinary, to be the outliers, to be the uncommon – though perhaps not in the most popularly coveted, or even obvious ways. It would be nice if we had a 95-mph fastball or if we were awarded Michelin stars for our cooking. That is probably not in the cards for us, but we can be uncommon in other more important ways.

- We can be uncommonly kind. When that project comes back and it still needs a lot of work, when there are delays, or when our teammates miss the mark, we can show the utmost kindness – taking time to teach, to mentor, to understand, and to help others become better.

- We can be uncommonly gracious. We can be the person who welcomes the stranger, puts the visitor at ease, and who is always there to include the outsider, to comfort the sorrowful, and to visit with the lonely. We can make charity and compassion our most important business.
- We can be uncommonly faithful. We can do what is right when no one is watching, even if it sets us back, or if others think less of us because of it. We can do good acts solely for the benefit of the other and without consideration of personal gain or recognition. We can be the kind of friend that we would want to have.
- We can be uncommonly peaceful and professional. We can work to foster cooperation and to resolve conflict. We can embrace the fact that our lives of zealous and effective advocacy need not require acrimony. We can be the person that others turn to when a fight is brewing. We can be the peacemakers.
- We can be uncommonly positive. When others are down, when it is easy to complain, when the groupthink is trending negative, we can be the voice of hope. We can always argue for optimism, look to the bright side, and promote good spirits – leading by example and blazing the trail towards better days.

The opportunities for the types of exceptionalism that really matter are endless. You already know this, of course, because I witness countless examples of these uncommon virtues every day. Let us all continue to nurture the extraordinary capacity for good in each of us through the end of this year, into the next, and on towards our future. And here is wishing each of you and yours uncommon happiness, joy, and blessings!

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CASE LAW UPDATE FOR Q4 2021 **ISSUE OF THE COURT CONNECTION**

Editors:

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

Eleventh Circuit Cases

Harris v. Jayo (In re Harris)

3 F.4th 1339 (11th Cir. 2021)

The Eleventh Circuit reversed the district court and bankruptcy court and held that a prior state court default judgment should not be given preclusive effect. The underlying default judgment was based on a complaint that included several alternative theories. Since the judgment was not clear as to which theories gave rise to the judgment, collateral estoppel did not apply to render the debt nondischargeable under § 523(a)(2)(A).

Cutuli v. Elie (In re Cutuli)

13 F.4th 1342 (11th Cir. 2021)

The Plaintiff timely filed a complaint to except a debt from the discharge. Because of unusual circumstances, however, the Plaintiff was unable to properly serve the summons and complaint for over two years. The Eleventh Circuit held that the bankruptcy court had discretion under Rule 7004(m) to extend the time for service.

Bankruptcy Court Cases

In re Vertical Mac Construction, LLC

2021 WL 3668037, Case No. 6:21-bk-01520-LVV (Bankr. M.D. Fla. July 23, 2021)
(Vaughan, J.)

The United States Trustee objected to the debtor’s Subchapter V election, contending that the debtor, a contractor that had shut down its operations before filing, was not “engaged in commercial or business activities.” Judge Vaughan overruled the objection by looking to the definitions of “commercial” and “business” and interpreting these terms more broadly than proposed by the objection. Judge Vaughan determined that, although the debtor was not operating its business, it still maintained bank accounts, had accounts receivable, and was analyzing claims and winding down its business. Thus, the debtor could proceed as a Subchapter V debtor.

In re 218 Jackson LLC

2021 WL 3662377, Case No. 6:21-bk-00983-LVV (Bankr. M.D. Fla. August 17, 2021)
(Vaughan, J.)

Stating that “a conflicted trustee hinders the very purpose of Subchapter V and cannot be tolerated,” Judge Vaughan removed a Subchapter V Trustee because the Trustee was not disinterested. In doing so, Judge Vaughan found the Trustee was “openly and actively” adverse to the debtor and spent his time objecting to the debtor’s efforts to reorganize and taking the side of the secured creditor—which is not the role of a Subchapter V Trustee—rather than trying to encourage a consensual plan. Not only did the Court find cause existed to remove the Trustee under § 324, the Court also denied all compensation to the Trustee.

Creative Enterprises HK, LTD. v. Simmons (In re Simmons)

2021 WL 3744890, Case No.: 3:20-ap-00081-JAF (Bankr. M.D. Fla. August 24, 2021)
(Funk, J.)

A creditor filed an adversary proceeding alleging that its debt should be excepted from discharge under § 523(a)(3)(A) because the debt was not initially scheduled by the debtors. The debt was only scheduled by an amendment to the schedules filed a year and a half after the case was filed—and over a year after the debtors received their discharge. Reading § 523(a)(3)(A) in conjunction with § 726(a)(2)(C), Judge Funk concluded the debt was not excepted from the discharge since the creditor ultimately filed a claim in time to share in any distributions from the estate.

In re Consolidated Land Holdings, LLC

2021 WL 3701799, Case No. 6:19-bk-04760-KSJ (Bankr. M.D. Fla. August 20, 2021)
(Jennemann, J.)

Judge Jennemann denied confirmation of a plan where the only accepting class, which consisted of the allowed general unsecured claim of one creditor, was receiving more than the class of remaining general unsecured creditors. Judge Jennemann found that the plan unfairly discriminated in favor of the accepting class. She reasoned that the separate classification was not supported by a legitimate business reason because “there [was] no legal or logical reason for unsecured creditors of equal priority to receive disproportionately different pro rata portions of the Equity Infusion” and that “[t]he only real reason to separate the two [was] to gerrymander an accepting impaired class of votes.”

In re Murphy

2021 WL 3013099, Case No. 2:17-bk-07843-FMD (Bankr. M.D. Fla. July 16, 2021)
(Delano, C.J.)

Based on the overwhelming evidence presented by the petitioning creditors regarding the debtor’s accumulated debts, and with a lack of evidence by the debtor that his debts were being paid or were in bona fide dispute, Chief Judge Delano granted summary judgment in favor of petitioning creditors, finding they sufficiently met their burden under § 303(h) that debtor is generally not paying his debts as they come due.



Welcome

Back to the Team!



**Lisa Pollett Returns to
Orlando Division**

Hello everyone,

I'm happy to announce that, after 15 years of being away from the Court, I've returned to the Orlando division as a case manager. As you may know, from 2003 to 2005, I was a case manager in the Orlando division. But, in 2005, I left the Court to follow my husband around the world during his military career.

During that time, I worked for a variety of government agencies, including the USDA, EPA, Department of Defense, Defense Logistics Agency, and Homeland Security. In 2017, my husband retired after 25 years of service, so we returned home to Orlando after having spent the previous four years in Germany.

Since returning to Orlando, I have worked for the Immigration Court. But, recently, I decided to return to the Bankruptcy Court. It's wonderful to be back, and I look forward to meeting everyone when things return to normal.

W E L C O M E
To The Team

Jennifer Deeb Joins Judge Colton's Chambers



On October 1, I began working as one of Judge Colton's law clerks. I was born in Florida, and I attended UF for undergrad, a master's degree in tax accounting, and law school. I am both a CPA and a lawyer, and I spent most of the last 21 years as a career law clerk for U.S. District Judge Susan Bucklew. When I am not working, I enjoy teaching a non-contact kickboxing class called Les Mills BodyCombat. I am excited for the opportunity to join the bankruptcy court and to work for Judge Colton.

W E L C O M E
To The Team

Meet Natalie and Camille

We welcome Natalie Usher and Camille Davidson from the Cristo Rey Tampa High School, a college preparatory and work study program. Students at Cristo Rey work one day a week from Monday through Thursday plus one Friday a month and attend school the other days.



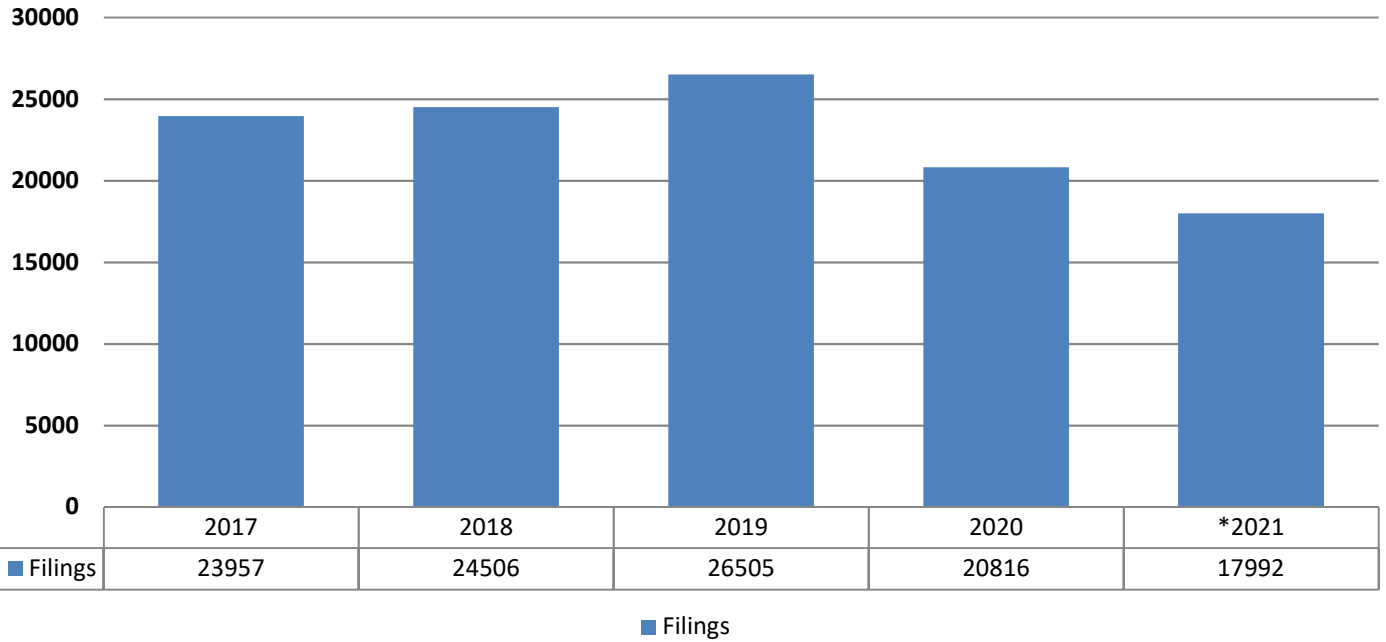
Natalie is in the tenth grade and hopes to complete dual enrollment. She wants to attend law school and become an international lawyer. Her favorite subject in school is Advanced Placement Art History.

Camille is in ninth grade and hopes to finish an associate degree by the time she leaves Cristo Rey. She wants to become a nurse. Her favorite subject in school is Theology. She is also one of ten siblings.



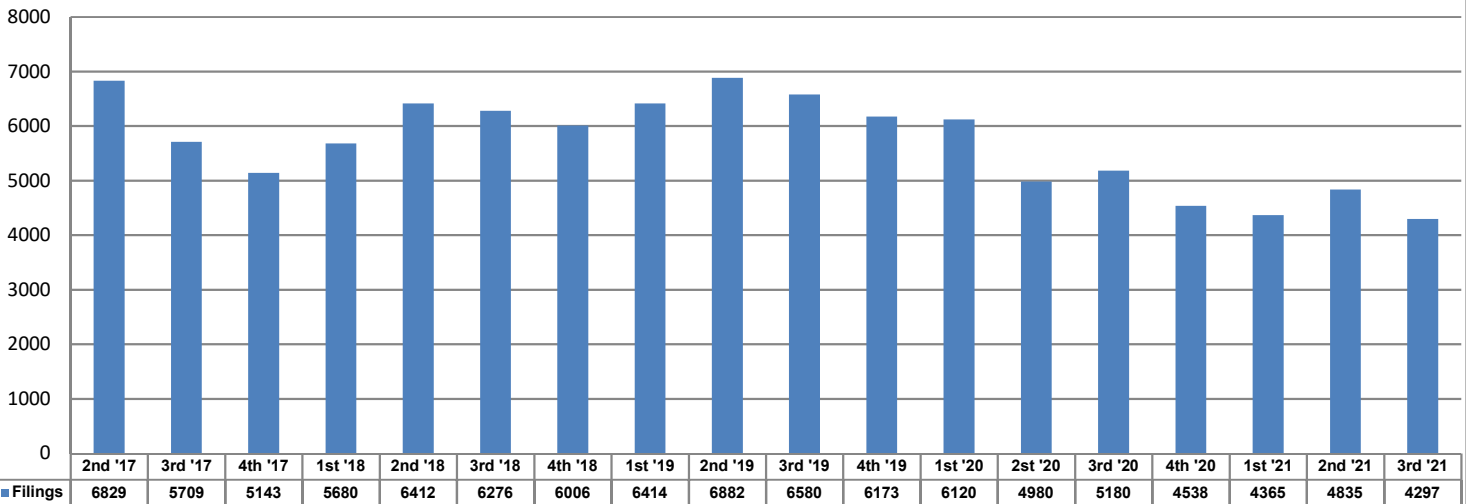
United States Bankruptcy Court - Middle District of Florida
Updated October 23, 2021 Meeting Data and Information
Statistics as of September 30, 2021

Annual Filings

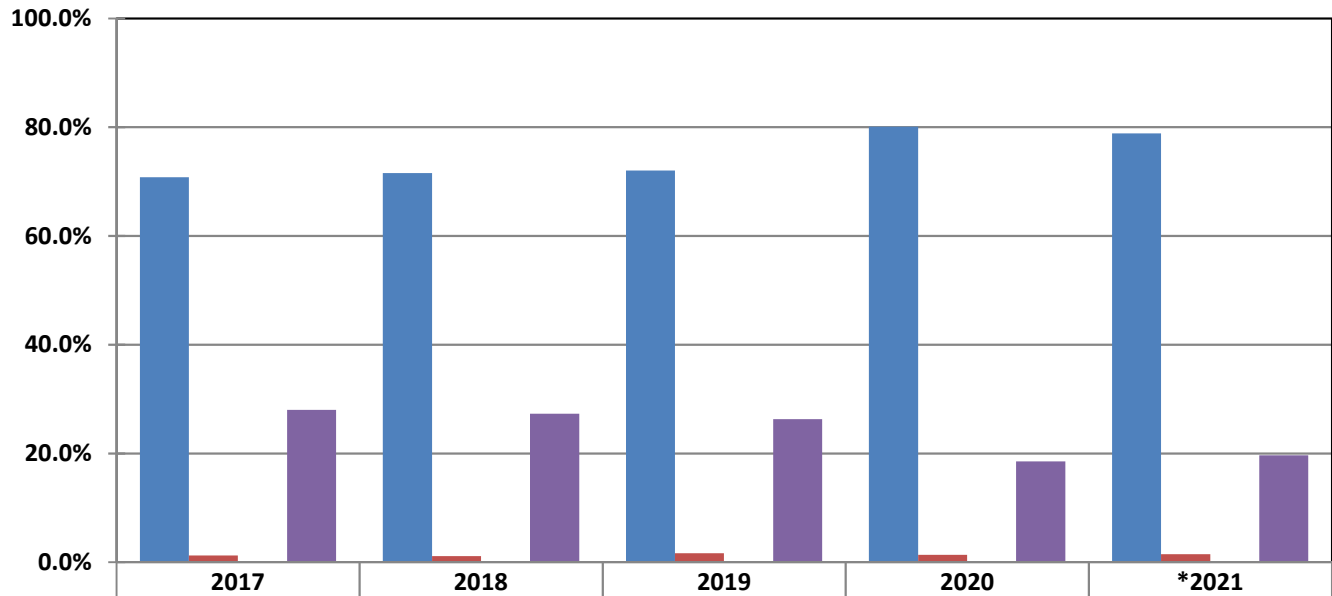


Year	Annual Filings	vs. 2015	vs. Prior Yr.
2017	23957		
2018	24506	2%	2%
2019	26505	11%	8%
2020	20816	-13%	-21%
*2021	17992	-25%	-14%

Filings by Quarter

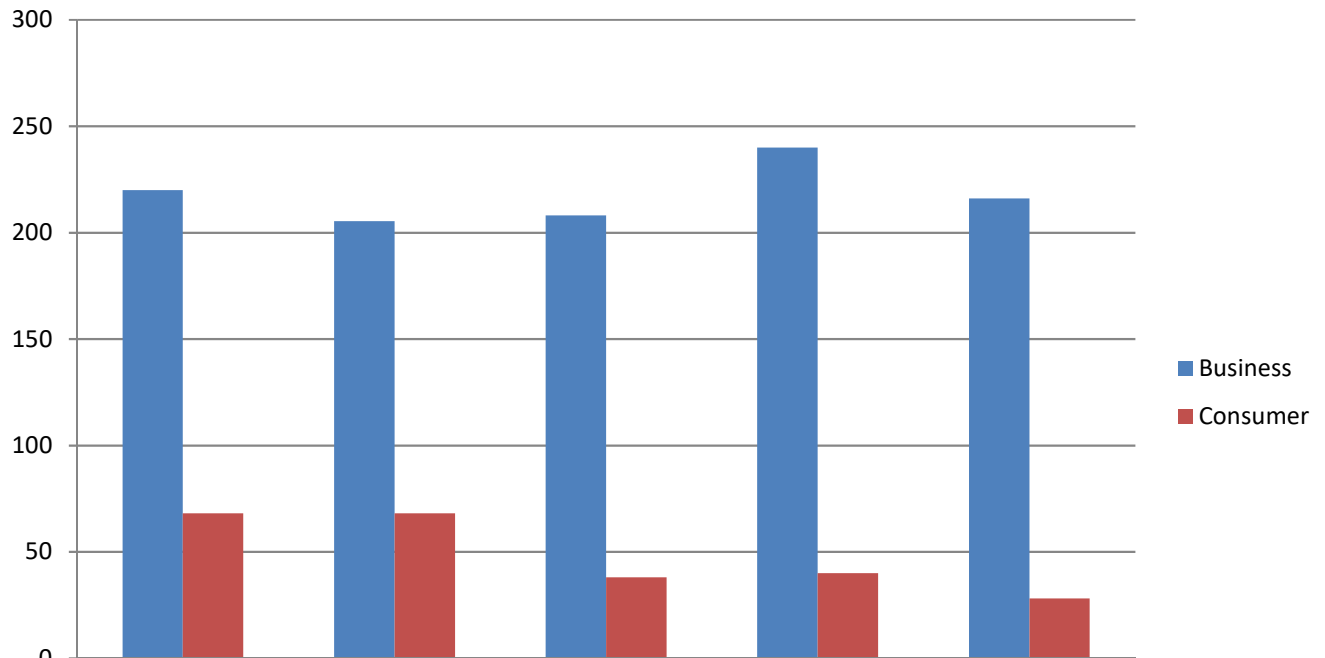


Filings by % of Chapter Type



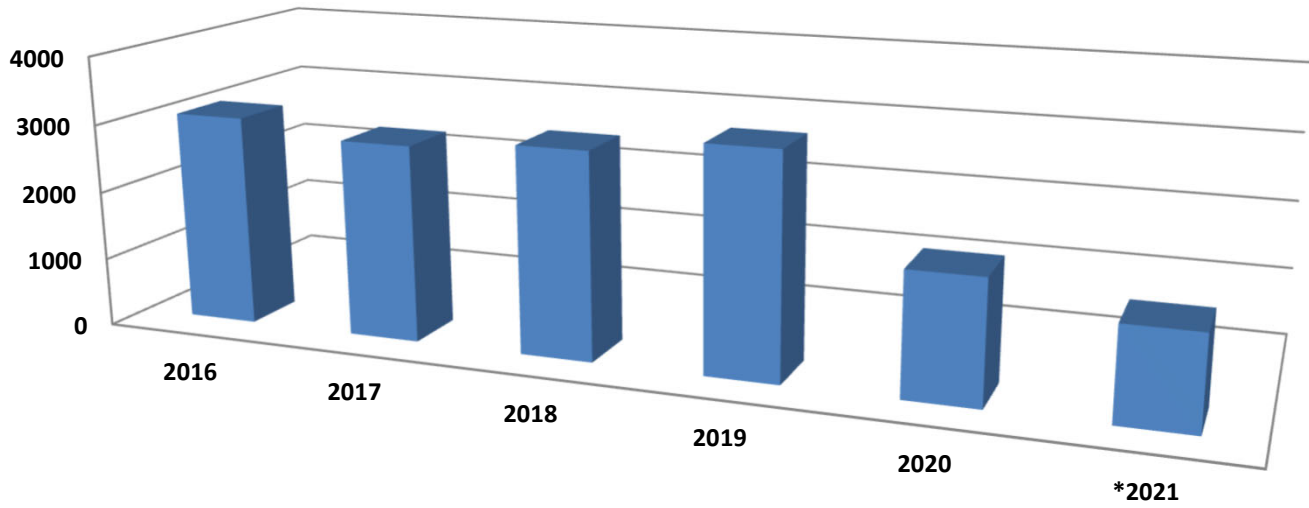
	2017	2018	2019	2020	*2021
Chapter 7	70.8%	71.6%	72.0%	80.1%	78.9%
Chapter 11	1.2%	1.1%	1.7%	1.4%	1.4%
Chapter 12	0.0%	0.0%	0.0%	0.0%	0.0%
Chapter 13	28.0%	27.3%	26.3%	18.5%	19.6%

Chapter 11 Filings



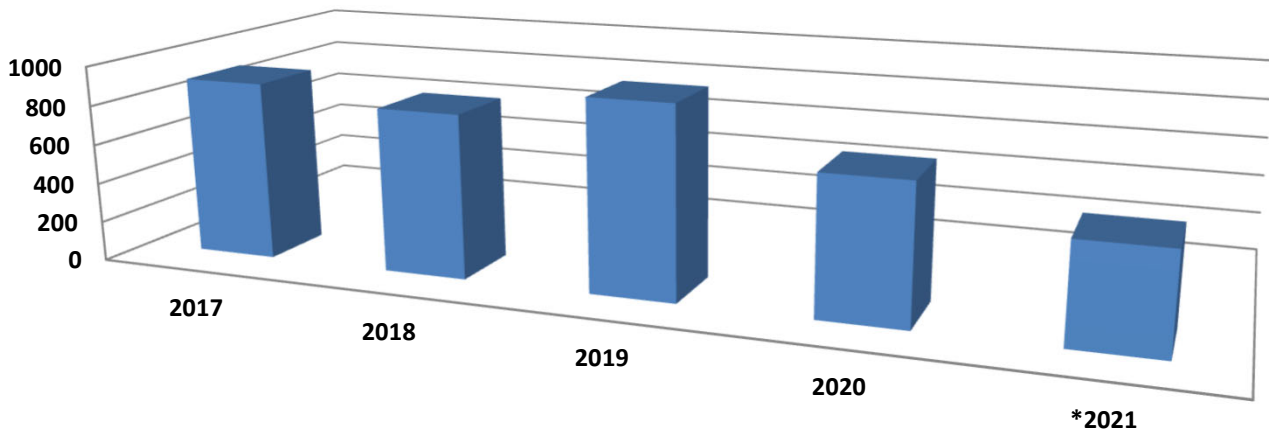
	2017	2018	2019	2020	*2021
Business	220	205	208	240	216
Consumer	68	68	38	40	28

Pro Se Filings



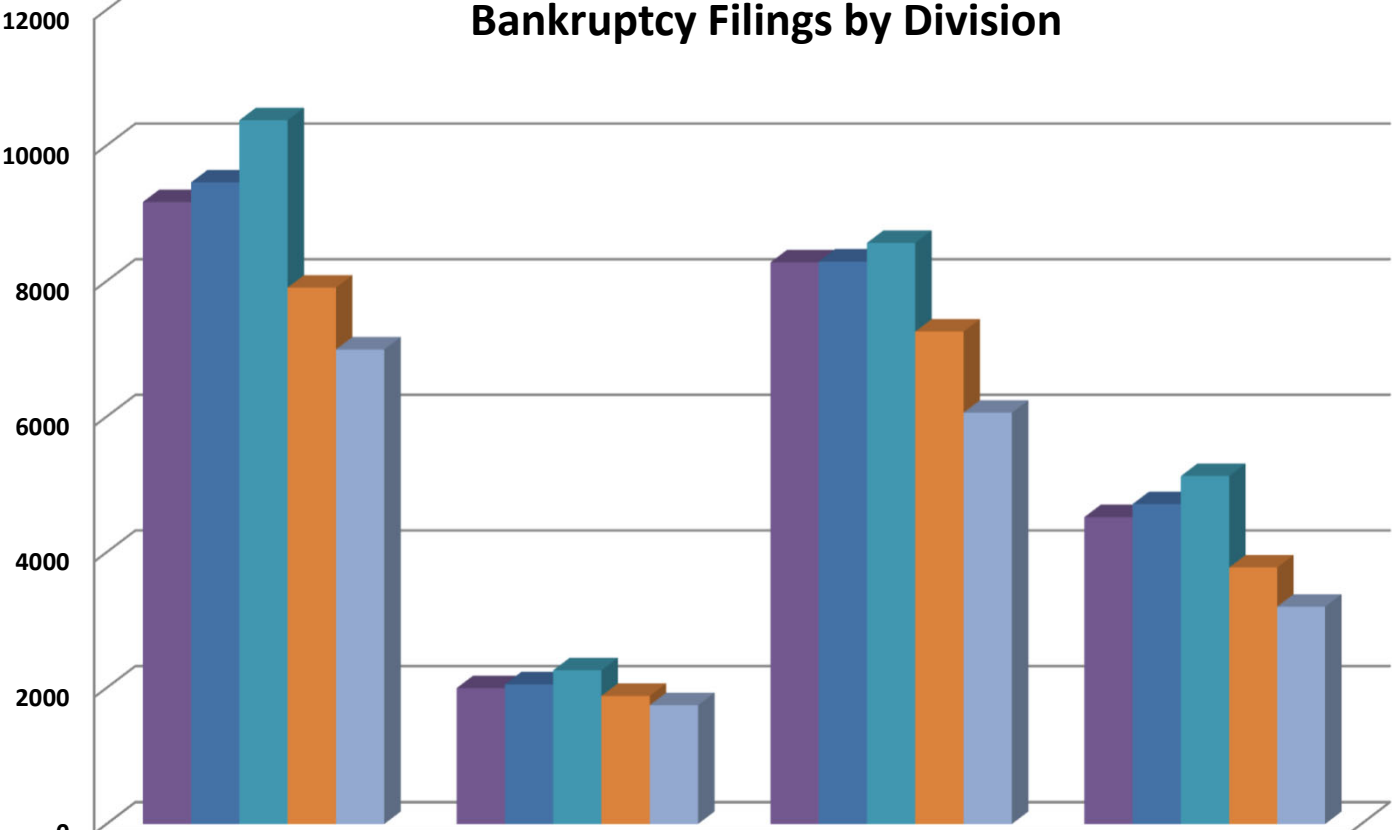
	2016	2017	2018	2019	2020	*2021
■ Pro Se	3079	2868	3006	3232	1779	1348
% of All Filings	13%	12%	12%	12%	9%	7%

In Forma Pauperis Filings



	2017	2018	2019	2020	*2021
■ IFP Granted	903	825	956	691	496
% of All Filings	4%	3%	4%	3%	3%

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	7904	1882	7255	3775
2021	6991	1745	6059	3197

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