



UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF NEW YORK

ECF NEWSLETTER

Our mission is to provide an opportunity for debtors to receive a fresh economic start and for creditors to be paid in accordance with the law, and to promote public confidence in the judiciary, by serving the public and all of our constituencies in the fair and just resolution of cases within our jurisdiction.

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AMENDMENTS TO BANKRUPTCY RULES AND FORMS (EFFECTIVE DECEMBER 1, 2021)

On September 15, 2020, the Judicial Conference of the United States approved proposed amendments to the Federal Rules of Bankruptcy Procedure and transmitted them to the Supreme Court on October 20, 2020. The Supreme Court adopted the proposed amendments and transmitted them to Congress on April 14, 2021. These amendments took effect on December 1, 2021 for Bankruptcy Rules 2005, 3007, 7007.1, 9036.

Bankruptcy Rule 2005 - Apprehension and Removal of Debtor to Compel Attendance for Examination

Bankruptcy Rule 3007 - Objections to Claims

Bankruptcy Rule 7007.1 - Corporate Ownership Statement

Bankruptcy Rule 9036 - Notice and Service by Electronic Transmission

Under 28 U.S.C. §§ 2074(a) and 2075, and the Supreme Court orders dated April 14, 2021, the amendments govern all proceedings commenced on or after December 1, 2021, and all proceedings then pending “insofar as just and practicable.” The text of the amended rules, and the accompanying committee notes—along with extensive supporting documentation related to their adoption—are posted on the United States Courts website. [See Current Rules of Practice and Procedure.](#)

In addition, one amended official bankruptcy form became effective on December 1, 2021 - **Official Form 122B - Chapter 11 Statement of Your Current Monthly Income.** As approved by the Judicial Conference, amendments to official bankruptcy forms govern all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending. [The form is posted on the United States Courts' website.](#)

BANKRUPTCY ADMINISTRATION IMPROVEMENT ACT OF 2020 (BAIA)

On January 12, 2021, the President signed into law the [Bankruptcy Administration Improvement Act \(BAIA\)](#). The BAIA amends section 330 of the Bankruptcy Code (11 U.S.C. § 330) to include a new subsection (e) that establishes a new payment for trustees serving in chapter 7 bankruptcy cases. This new payment supplements the existing payment under 11 U.S.C. § 330(b) to trustees serving in chapter 7 cases. The trustees will receive this new payment from the Chapter 7 Trustee Fund established by section 330(e)(1), of the Bankruptcy Code.

Three new CM/ECF events were created in accordance with **BAIA**.

Two New Chapter 7 Trustee Events:

1. **Trustee Services Rendered Pursuant to § 330(e)** – This new event should be filed by the trustee to certify that the trustee has performed the duties necessary to be eligible to receive payment for services rendered for chapter 7 cases for which they are assigned.
2. **Withdrawal of Trustee Services Rendered** – This new event should be used by the trustee to file a withdrawal of the Trustee Services Rendered event.

New Court Event for Court Staff

Trustee Payment Under 11 U.S.C. § 330(e) Processed – This new event will be used by court staff in the Finance Unit to indicate that the trustee payment has been processed.

The Administrative Office of the United States Courts will provide more guidance on the new processes related to payment under 11 U.S.C. § 330(b) in the forthcoming weeks.

COMMENTS INVITED ON PROPOSED RULES FOR FUTURE EMERGENCIES

[United States Court – Judiciary News - Published August 9, 2021](#)

The bench, bar, and public have been asked to provide comments on a series of proposed rules that would, if approved, guide the Judiciary in responding to future declared emergencies that impair federal court operations. The proposals include amendments to Appellate Rules 2 and 4, and new emergency Bankruptcy, Civil, and Criminal Rules.

The comment period runs from August 6, 2021 to February 16, 2022. [Read the proposals as well as instructions](#) for submitting comments and requests to testify at a series of planned public hearings.

EXPIRATION OF CERTAIN BANKRUPTCY CODE AMENDMENTS IN THE CONSOLIDATED APPROPRIATIONS ACT OF 2021

The [Consolidated Appropriations Act 2021](#) (CAA) was signed into law on December 27, 2020. Section 1001 of Division FF, Title X, of the Act amended several sections in the Bankruptcy Code on a temporary basis to provide certain relief to individuals and businesses affected by the pandemic. This section had nine subsections (a) through (i); seven of which (a, b, c, d, e, and i) expired on December 27, 2021. Please note that subsections (f) and (g) have a sunset date of December 27, 2022.

The Court has deactivated the following two events from CM/ECF which correspond to the lapsed amendments under CAA:

1. *Motion Seeking Discharge Pursuant to 1328(i)*, which allowed, under certain circumstances, a chapter 13 debtor to obtain a discharge (not hardship) despite the debtor missing no more than three residential mortgage payments, has been removed because the corresponding amendment has lapsed. *See* CAA, Div. FF, Title X § 1001(b)(2).
2. *Supplemental Proof of Claim for CARES Forbearance Claim*, which allowed an “eligible creditor” to file a supplemental claim arising from a debtor’s loan forbearance under the CARES Act, has been removed because the corresponding amendment has lapsed. *See id.* at § 1001(d)(3).

P.S. Congress may elect to extend the sunset dates for the lapsed amendments and make it retroactive. We will monitor the legislative activity and inform you should Congress act.

BANKRUPTCY CASE FILING STATISTICS

January 2021 – November 2021

• Chapter 7.....	4,575
• Chapter 9.....	0
• Chapter 11.....	125
• Chapter 12.....	0
• Chapter 13.....	468
• Chapter 15.....	1
Total Cases Filed.....	5,169
Total Adversary Proceedings.....	347

**BANKRUPTCY FILING CONTINUES
TO FALL SHARPLY**

[United States Court News - Published on November 8, 2021](#)

Personal and business bankruptcy filings fell 29.1 percent for the 12-month period ending September 30, 2021. A steady decline in filings has continued since the coronavirus (COVID-19) crisis began. According to statistics released by the Administrative Office of the U.S. Courts, the September 2021 annual bankruptcy filings totaled 434,540, compared with 612,561 cases in the previous year.

Business filings fell 27.9 percent, from 22,391 to 16,140 in the year ending September 30, 2021. Non-business bankruptcy filings fell 29.1 percent, to 418,400 compared with 590,170 in the previous year.

The 12-month percentage drop nearly matched the previous quarterly filings report, when new bankruptcies filed in the 12 months ending June 30, 2021, were 32.2 percent lower than in June 2020.

Unemployment temporarily spiked in March 2020, when the COVID-19 emergency intensified. However, several factors may have impacted individuals' decisions about whether to file for bankruptcy since the crisis began. For instance, increased government benefits and moratoriums on evictions and certain foreclosures may have eased financial pressures in many households.

**Business and Non-Business Filing
Years Ending
September 30, 2017-2021**

Year	Business	Non-Business	Total
2021	16,140	418,400	434,540
2020	22,391	590,170	612,561
2019	22,910	753,764	776,674
2018	22,103	751,272	773,375
2017	23,109	767,721	790,830

**Total Bankruptcy Filings by Chapter
Years Ending
September 30, 2017-2021**

Year	Chapter			
	7	11	12	
2021	310,597	5,622	344	117,784
2020	409,164	8,188	581	194,384
2019	478,838	7,320	583	289,802
2018	477,248	7,014	468	288,550
2017	486,542	7,052	508	296,599

FEDERAL COURT REPORTING PROGRAM

Excerpt from [United States Courts](#)

Transcripts

The Court Reporter Statutes 28 U.S.C. §753. set forth the proceedings to be recorded.

Court Reporting Guidance - This guidance addresses the use of court reporting and electronic sound recording methods in keeping the record in the federal courts. While each federal court administers its reporting services locally, there are certain requirements established by statute and by the Judicial Conference of the United States that all courts must fulfill.

One of the primary responsibilities of the court reporter is to provide a written transcript of court proceedings upon the request of a party or order of court. Written transcripts are prepared within the Judicial Conference's guidelines on page format, page rates, and delivery schedules. The transcripts of proceedings recorded by electronic sound recording equipment are produced by private transcription services designated by the court to transcribe federal court proceedings.

The court reporters and transcribers may charge and collect fees for transcripts requested by the parties, including the United States. The fee schedule should be posted prominently in the district court clerk's office or available on a court's web site. When a transcript is ordered, the first party to order it pays the original transcript rate, and subsequent requesters pay a copy rate (see [Maximum Per Page Transcript Rates](#)). When a court reporter or transcriber delivers the original transcript to the ordering party, the court reporter or transcriber is also required to file a certified electronic copy to the clerk of court.

The Judicial Conference has made it explicit that official court reporters may charge only copy fees for transcripts provided to parties when the original transcript was produced at the request of a judge.

The Judicial Conference approved a policy regarding the availability of transcripts of court proceedings filed with the clerk of court in electronic format. A transcript provided to a court by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days (unless extended by the court) after it is delivered to the clerk. During the 90-day period:

- a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference.
- the transcript will be available within the court for internal use; and
- an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's Case Management/ Electronic Case Files (CM/ECF) system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.

During the 90-day period (which may be extended by the court), access to the transcript in CM/ECF is restricted to court staff, public terminal users, attorneys of record or parties who have purchased the transcript from the court reporter/transcriber, and other persons as directed by the court (e.g., appellate attorneys). Also, during this time, parties may redact personal identifiers. After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for download from the court's CM/ECF system through the judiciary's PACER system....

CONTACT INFORMATION

United States Bankruptcy Court
Eastern District of New York
Conrad B. Duberstein United States Bankruptcy Courthouse
271-C Cadman Plaza East, Suite 1595
Brooklyn, NY 11201-1800
(347) 394-1700
Help Desk: (347) 394-1700, press 6

United States Bankruptcy Court
Eastern District of New York
Alfonse M. D'Amato United States Courthouse
Federal Plaza, Room 290
Central Islip, NY 11722
(631) 712-6200
Help Desk: (631) 712-6200, press 6

- The Voice Case Information System (VCIS) - 866-222-8029
- The Court's website address is: <http://www.nyeb.uscourts.gov/>
- Email your non-emergency procedural questions to: ECF_Helpdesk@nyeb.uscourts.gov
- [Visit the ECF Newsletter Archive](#) to access previous editions of the ECF newsletter.
- To cut down on the number of error emails sent to filers each year, we would like to hear from you as to how we can best assist in making docket entries consistent with the requirements of this Court. Send me an email at Margaret_Clarke@nyeb.uscourts.gov letting me know how we can help.
- Contact Margaret_Clarke@nyeb.uscourts.gov with your suggestions, articles, and topics for the newsletter.