



# 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.*

#### CONTENTS

Notices to Bar and Public.....p. 2
NextGen CM/ECF.....p. 2
New Bankruptcy Filings Plummet.....p. 3
Bankruptcy Case Filing Statistics.....p. 3
Means Test Update.....p. 3
<i>Pro Bono</i> Panel.....p. 4
Services for Those with Disabilities.....p. 4
Attorney Reminder Corner....p. 5
Proposed Amendments.....p. 5
Contact Information.....p. 6

#### **NOTICE REGARDING THE UNITED STATES TRUSTEE PROGRAM'S NEW CHAPTER 11 PERIODIC REPORTS (28 C.F.R. § 58.8.) (EFFECTIVE JUNE 21, 2021)**

On December 21, 2020, the U.S. Trustee Program (USTP) promulgated a final rule. [“Procedures for Completing Uniform Periodic Reports in Non-Small Business Cases Filed Under Chapter 11 of Title 11”](#) (hereinafter referred to as the “Final Rule”). (1) The Final Rule, which is authorized by 28 U.S.C. § 589b, requires that Chapter 11 debtors in possession and trustees — other than small business debtors (2) — file Monthly Operating Reports (MORs) and Post-Confirmation Reports (PCRs) using streamlined, data-embedded, uniform forms in every case in every judicial district where the USTP operates.

The Final Rule became effective for all reports filed on or after June 21, 2021. The complete notice can be found on the [Court’s website](#).

#### **HEALTH AND SAFETY PROTOCOLS FOR COURTHOUSES IN THE EASTERN DISTRICT OF NEW YORK EFFECTIVE MAY 27, 2021**

The health and safety of everyone who comes to our courthouses – employees, lawyers, litigants, jurors, contractors, law enforcement personnel, the press, and interested members of the public – is our priority. After considering guidance from an expert epidemiologist retained by the Court, as well as leading health organizations, including the Centers for Disease Control and New York State, New York City and Long Island public health agencies, the Eastern District of New York adopts the following health and safety protocols for everyone’s protection. These protocols will remain in effect as public health guidance requires them. The Court may modify these protocols as necessary. More information on the [protocols](#) can be found on the Court’s website.

**IMPORTANT NOTICES TO THE BAR AND PUBLIC  
CONCERNING MOTION FOR DISCHARGE PURSUANT  
TO SECTION 1328(i) OF THE BANKRUPTCY CODE  
AND  
SUPPLEMENTAL PROOF OF CLAIM FOR CARES FORBEARANCE CLAIMS**

The Consolidated Appropriations Act created a new subsection (i) of section 1328 of the Bankruptcy Code permitting a court, under certain circumstances related to the COVID-19 pandemic, to grant a Chapter 13 discharge, even if the debtor is not current on no more than three residential mortgage payments. This type of request should be filed by motion with notice and hearing. An Order of Discharge under Section 1328(i) will be issued by the Court upon granting of such motion. See the Court’s website for more details. A new docket event, *Seeking a Discharge Pursuant to Section 1328(i)*, has been created in CM/ECF for the filing of this type of motion. Filers who do not select the event, *Seeking a Discharge Pursuant to Section 1328(i)* event in CM/ECF will be asked to resubmit the motion using the correct event.

In addition, a supplemental proof of claim form for a CARES Act forbearance in a Chapter 13 case has been approved by the Advisory Committee on Bankruptcy Rules. The new form, *Supplemental Proof of Claim for CARES Forbearance Claim* (Form 4100S), is available on the Court’s website. The docket entry will populate to the general docket and the claims register.

<b>Menu</b>	<b>Bankruptcy Event</b>	<b>Available Event</b>	<b>Where to find docket entry</b>
Bankruptcy	Motion/Application/Presentment	<i>Seeking a Discharge Pursuant to Section 1328(i)</i>	Case Docket
Bankruptcy	Claim Action	<i>Supplemental Proof of Claim for CARES Forbearance Claim</i> (Form 4100S)	Case Docket and Claims Register

**NEXTGEN CM/ECF**

On January 19, 2021 the United States Bankruptcy Court, Eastern District of New York upgraded to NextGen CM/ECF. This change allows users to:

- Maintain one account across all Courts (appellate, district, and bankruptcy) in which they have permission to electronically file, via Public Access to Court Electronic Records ([PACER](#)).
- Ability to retain your PACER account even if you move to another organization.
- Centrally manage your account and payment information.
- Create your own username and password.
- Provides enhanced account security, including a password strength meter that helps create stronger, more secure passwords.
- Update address and primary email information via PACER.

## NEW BANKRUPTCY FILINGS PLUMMET 38.1 PERCENT

Bankruptcy filings dropped 38.1 percent for the 12-month period ending March 31, 2021, a dramatic fall that coincided with the coronavirus (COVID-19), which first disrupted the economy in March 2020. According to statistics released by the Administrative Office of the U.S. Courts, the March 2021 annual bankruptcy filings totaled 473,349, compared with 764,282 cases in the previous year. The complete article can be found on the [United States Courts' website](#).

## BANKRUPTCY CASE FILING STATISTICS

### January 2021 – June 2021

• Chapter 7.....	2,703
• Chapter 9.....	0
• Chapter 11.....	65
• Chapter 12.....	0
• Chapter 13.....	235
• Chapter 15.....	0
<b>Total Cases Filed.....</b>	<b>3,003</b>
<b>Total Adversary Proceedings.....</b>	<b>169</b>

## MEANS TEST UPDATE

### Census Bureau and IRS Data From *United States Trustee Program Web Site* Cases Filed on and After May 15, 2021

The information provided below is applicable to Official Bankruptcy Forms:

- 122A-1 (Chapter 7 Statement of Your Current Monthly Income)
- 122A-2 (Chapter 7 Means Test Calculation)
- 122C-1 (Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period)
- 122C-2 (Chapter 13 Calculation of Your Disposable Income).

The complete article can be found on the [Court's website](#).

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
*PRO BONO* PANEL**

**City Bar Justice Center Announces New *Pro Bono* Panel**

The new **United States Bankruptcy Court, Eastern District of New York, *Pro Bono* Panel** offers attorneys the opportunity to provide debtors or individual creditors, with limited income and resources, and who cannot afford to retain private counsel, with *pro bono* assistance in various contested bankruptcy matters. Contested matters are typically referred by the bankruptcy judges of this district, with a particular focus on Central Islip, for *pro bono* representation.

Volunteer attorneys' participation on the Panel does not obligate attorneys to accept a *pro bono* assignment. However, attorneys who accept *pro bono* matters meet with the clients to fully discuss the merits of the case, and advise the clients on the possibility of resolving the cases through various legal options (settlement, mediation, etc.), or by litigating the matters in court.

Seasoned bankruptcy practitioners and litigators alike have found these matters to be rewarding and accessible. The Panel is also an excellent opportunity for junior attorneys to gain significant court experience and allow attorneys of all levels to have a meaningful impact on the ability of *pro se* debtors and creditors to achieve a "fresh start."

For more information on volunteering, contact Ramona Morel, Director, Consumer Bankruptcy Project, at 212-382-4783 or [rmorel@nycbar.org](mailto:rmorel@nycbar.org).

**SERVICES PROVIDED TO THE HEARING IMPAIRED  
AND OTHER PERSONS WITH COMMUNICATION DISABILITIES**

The United States Bankruptcy Court, Eastern District of New York provides certain services to the hearing impaired in judicial proceedings. [Services Provided to the Hearing Impaired and Others with Disabilities](#) can be found at the Court's website. Copies of the procedure and form are also available at the Intake Counter.

**ATTORNEY REMINDER CORNER AND HELPFUL TIP**

**Amend a Caption**

1. It is important that the Debtor’s name appears correctly on all documents filed with the Court.
2. We use the event, **Amend a Caption**, to add the Debtor’s alias names or correct a Debtor’s misspelled name in a Voluntary Petition. The Court requires that an Application to Amend Caption and a Proposed Order Amending Caption to Correct Name, hereinafter referred to as “Application”, be filed. See [\(U.S.B.C., E.D.NY. Local Bankruptcy Rule 1005-2\)](#).
3. The [Application](#) is located on our Court’s website.
4. Re-filing the Voluntary Petition with the correct name of the Debtor is futile until the proposed order is signed. After the proposed order is signed, you may re-file only pages 1-8 of the Voluntary Petition for Individuals and pages 1-4 for Non-Individuals. The **Available Events, Refiled Petition Re: Forms Modernization 2015 (Pgs. 1-8) for Individuals** or **Refiled Petition Re: Forms Modernization 2015 (Pgs. 1-4) for Non-Individual**, must be used to docket the re-filed Voluntary Petition. These events are found under **Bankruptcy > Other**. Do not open a new Bankruptcy Case.
5. In the application, state the changes that are being made. Identify the incorrect name of the Debtor and the correct name of the Debtor. For example, the original submitted caption is *changed from Mary Smith to Mary Smith a/k/a Mary Smith Johnson*.
6. To file the application in CM/ECF, select from the category **Bankruptcy > Motions/Applications/ Presentments > Amend Caption (Name ONLY)** to electronically file the application and attach the proposed order.
7. In addition to attaching the proposed order to the application in CM/ECF, upload the proposed order to chambers both in pdf. and word processing document format (.doc, .docx, .pdf) under the category **Bankruptcy > Upload Proposed Order**.

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

Below are the links to various materials for the Proposed Amendments to the Federal Rules of Bankruptcy Procedure. Pending approval of Congress, the amendments will be effective December 1, 2021

- [Congressional Package](#) (pdf) – April 2021
- [Supreme Court Package](#) (pdf) – October 2020
- [Standing Committee Report to the Judicial Conference](#) (pdf) – September 2020
- [Preliminary Draft of Proposed Amendments to the Federal Rules](#) (pdf) – August 2019
- [Standing Committee Report to the Judicial Conference](#) (pdf) – March 2021
- [Preliminary Draft of Proposed Amendments to the Federal Rules](#) (pdf) – August 2019

## 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

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

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- 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](mailto:ECF_Helpdesk@nyeb.uscourts.gov)
- [Visit the ECF Newsletter Archive](#) to access previous editions of the ECF newsletter.
- In order 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](mailto:Margaret_Clarke@nyeb.uscourts.gov) letting me know how we can help.
- Contact [Margaret\\_Clarke@nyeb.uscourts.gov](mailto:Margaret_Clarke@nyeb.uscourts.gov) with your suggestions, articles, and topics for the newsletter.