

Weekly Bankruptcy Analysis

May 18-24, 2020

Written by:

Ed Flynn¹

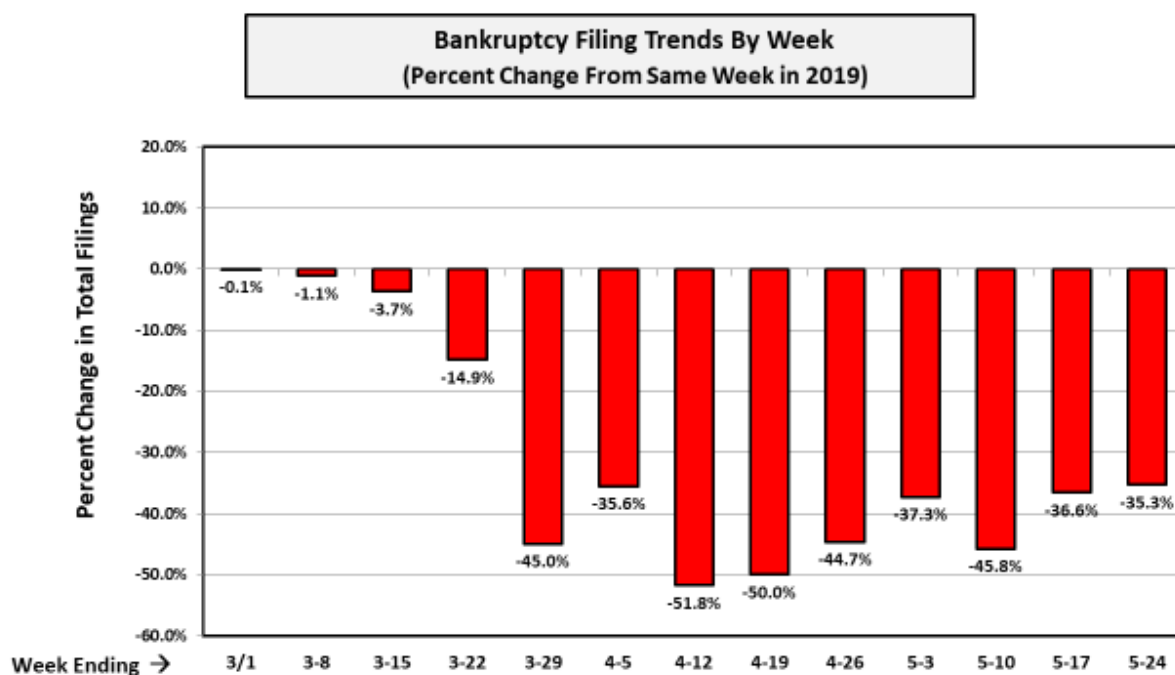
American Bankruptcy Institute; Alexandria, Va.

Total Bankruptcy Filings

Total filings were down by 35.3% for the week ending May 24 from the same week in 2019. This is the smallest percentage weekly drop since late March of 2020.

Bankruptcy Filings		
Type of Case	Number Filed	Percent Change From Same Week in 2019
Total	9,538	-35.3%
- Chapter 7	7,336	-23.6%
- Chapter 11	146	46.0%
- Chapter 13	2,043	-59.4%
- Other Cases*	13	-38.1%
* Chapters 9, 12 and 15		

The following chart shows the weekly total filing trends since the beginning of March:



The overall mix of filing chapters has changed significantly due to COVID-19: More than 75% of cases are now filed under chapter 7, compared to about 62% in recent years.

¹ Ed Flynn is a consultant with ABI and serves as a coordinating editor for the *ABI Journal*. He previously worked for more than 30 years at the Executive Office for U.S. Trustees and the Administrative Office of the U.S. Courts.

Chapter 11 Filings

Total chapter 11 filings have risen in recent months, but that has largely been due to the unusual number of cases with multiple related filings. Prof. Robert M. Lawless (University of Illinois College of Law; Champaign, Ill.) explored this phenomenon in a recent Credit Slips blog post:

The thing about chapter 11 filings is that they are tricky to count. Each subsidiary of a corporate group gets counted as a separate filing such that one corporate group can artificially inflate the filings. For example, the bankruptcy filing of Frontier Communications appears to have counted for over 90 of the 405 chapter 11 filings in the first two weeks of April this year. Gold's Gym was responsible for 13 of the 334 filings in early May. The chapter 11 filings are inflated in this way every month, and the differences wash out over longer periods of time. But, when looking at shorter periods — even monthly periods — one entity with lots of affiliates can distort the numbers. (See an [old post here](#) for more detail about how one home builder bankruptcy with 187 subsidiaries made it look like there was an economic calamity in August 2008.) I don't think we should ignore the chapter 11 numbers, just recognize their imprecision. I am comfortable saying chapter 11 filings are roughly what they were one year ago.²

Between April 1 and May 24, 2020, there were 1,110 chapter 11 cases filed nationwide. Based on an examination of their filing dates, docket numbers and case names, there were:

- 280 solo case filings;
- 67 “parent” case filings; and
- 763 “child” or “related” case filings.

Historically, 20-30% of chapter 11 filings have consisted of “child” cases. Now, they comprise nearly 70% of the overall chapter 11 caseload.

Chapter 11 filings would actually be down substantially from last year if there hadn't been a spike in related filings. However, it looks like attorneys in Delaware, New York City, Texas and Richmond, Va., are going to be quite busy in the near term due to the large cases that have already been filed and the many more large cases that are still in the pipeline.

Notable Case Filings During the Week

- Hertz (car rental agency)
- Akorn (pharmaceutical company)
- Centric Brands (clothing company)
- City of Fairfield, Ala. (chapter 9).

² Bob Lawless, “Total Bankruptcy Filings Remain Low, Chapter 11s Not So Much,” Credit Slips, May 22, 2020, available at <https://www.creditslips.org/creditslips/2020/05/total-bankruptcy-filings-remain-low-chapter-11s-not-so-much.html>.