

Weekly Bankruptcy Analysis

June 29 – July 5, 2020

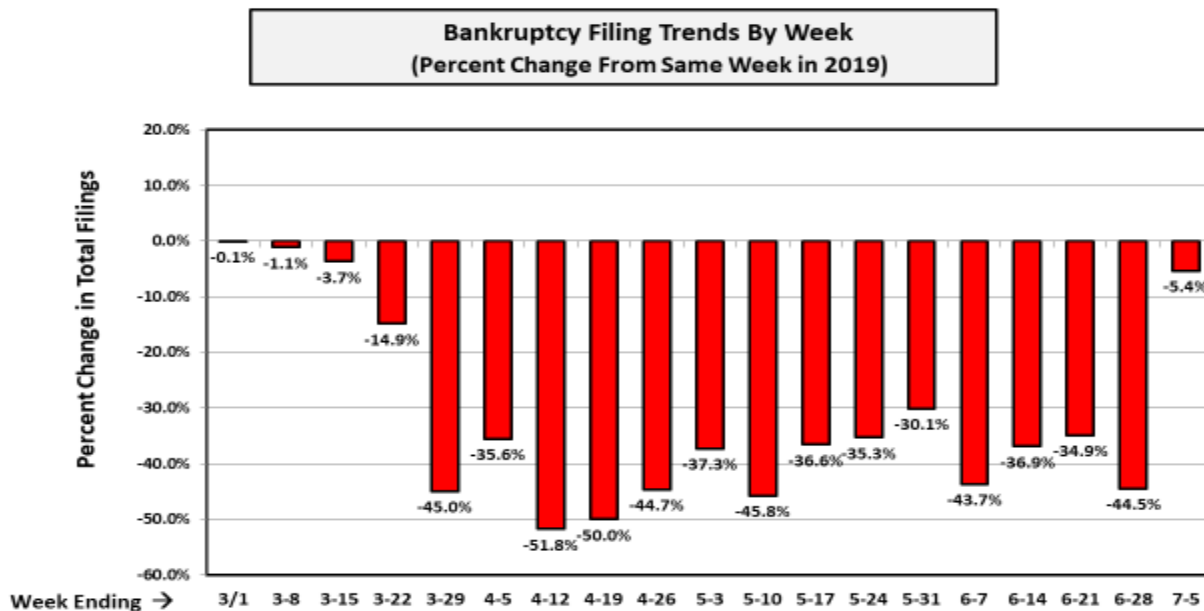
by Ed Flynn*

Total filings were down by only 5.4 percent during the week ending July 5, compared to the same week in 2019.¹ At first glance these figures are surprising because it is by far the smallest weekly decline since the COVID-19 shutdowns in mid-March.

The explanation has more to do with what happened last year rather than last week. Filings were unusually low during the same week last year for two reasons. The end of the month surge last year largely occurred on June 28th, which was the last business day of the month. Also the July 4th Holiday fell on a Thursday in 2019, so filings were quite low on July 4-5 last year.

Bankruptcy Filings June 29 - July 5, 2020		
Type of Case	Number Filed	Percent Change From Same Week in 2019
Total	10,617	-5.4%
- Chapter 7	7,914	19.5%
- Chapter 11	123	28.1%
- Chapter 13	2,525	-43.9%
- Other Cases*	55	816.7%
* Chapters 9, 12 and 15		

As a result, this was the first week since late March that total filings were not down by at least 30 percent compared to last year. Following is a chart that shows the weekly trends during the COVID-19 era:



¹ These figures are from PACER, and are subject to change. See: <https://www.pacer.gov/>

Chapter 11 Cases: The chapter 11 filing numbers continue to be propped up by the number of related filings associated with the larger cases. (Cases were considered related if they were filed on the same day, district, and office with consecutive docket numbers.) Although total chapter 11 filings have been up substantially in recent months, the total of solo and parent cases has been comparable to recent years.

Types of Chapter 11 Cases Filed		
	June 29 - July 5	
	2020	2019
Total Filed	123	96
Solo Cases	44	54
Parent cases	13	9
Child cases	66	33
<i>Filed By Individuals</i>	11	11
Subchapter V Cases	27	NA

Notable Case Filings: There were a number of prominent filings during the week, two each for Delaware, New York Southern, and Texas Southern.

Notable Case Filings June 29 - July 5, 2020				
Company Name	Industry	Date Filed	Court of Filing	Number of Related Cases
Covia Holdings Corporation	Frac-sand supplier	6/29/2020	Texas Southern	27
Grupo Aeromexico S.A.B. de C.V.	Airlines	6/30/2020	New York Southern	3
Cirque du Soleil*	Circus producer	7/1/2020	Delaware	42
NPC International, Inc.	Fast food franchisee	7/1/2020	Texas Southern	7
Lucky Brand Dungarees, LLC	Clothing retailer	7/3/2020	Delaware	4
Fig & Olive USA, Inc.	High-end restaurants	7/3/2020	New York Southern	10
* Filed under chapter 15				

See the ABI Headlines for news of the latest filings: <https://www.abi.org/newsroom/headlines>

Subchapter V Cases Set a Monthly Record in June: The Small Business Reorganization Act of 2019 (SBRA) took effect on February 19, 2020. With the creation of subchapter V, it provides a streamlined path through chapter 11 for small business debtors.

There were 131 subchapter V cases filed during June, the highest to date in a single month. Over 500 subchapter V cases have been filed to date.

Subchapter V cases by month:

February (19-29)	82 cases
March (full month)	122 cases
April (full month)	68 cases
May (full month)	114 cases
June (full month)	131 cases

Chapter 15 Cases: Chapter 15 was a new chapter added to the Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), replacing § 304 of the Bankruptcy Code. Generally, a chapter 15 case is ancillary to a primary proceeding brought in another country. An average of 102 chapter 15 cases have been filed per year over the last decade. Historically, about two-thirds of chapter 15 cases have been filed in either the Southern District of New York or the District of Delaware.

Cirque du Soleil Entertainment Group filed in Quebec on June 29 under the Companies' Creditors Arrangement Act. This was followed two days later by the filing of 43 chapter 15 cases in Delaware.

Quarterly Filings: The second quarter of 2020 is now history. The official filing statistics for the quarter will be released by the Administrative Office of the United States Courts in a few weeks. For various technical reasons the official numbers are a percent or two higher than the preliminary data from PACER, but here is a preview:

- Total filings will be about 123,000 for the quarter – down about 40 percent from last year. This is the lowest quarterly total since January-March 2006 in the immediate aftermath of BAPCPA. Except for that anomalous quarter, filings will be the lowest in any quarter since 1986.
- Chapter 7 filings were down by about 30 percent during the quarter, while chapter 13 filings fell by at least 60 percent.
- The largest declines (all over 50 percent) occurred in New York, Massachusetts, New Jersey, Washington D.C., and Louisiana.
- The smallest declines (under 25 percent) were in North Dakota, South Dakota, Hawaii, Maine, West Virginia, Nebraska, and New Mexico.
- Delaware was the only state to show an increase during the quarter (about 60 percent of the cases filed there during the quarter were chapter 11 cases).
- Chapter 11 filings were up about 15 percent from the same quarter last year. However, nearly 60 percent of the chapter 11 cases filed last quarter were in three judicial districts – Delaware, New York Southern and Texas Southern. In most areas of the country chapter 11 activity is down from last year.

**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.*