

Bankruptcy In Brief

News from the Bankruptcy Court

Western District of Louisiana - Lafayette/Opelousas/Lake Charles Divisions Editor: Alice Dukes

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STUFF ABOUT CHAPTER 13


BY: Keith A. Rodriguez

The second anniversary of the effective date of BAPCPA recently passed and it appears Chapter 13 cases are moving along rather smoothly. The current total filings for both Lafayette and Lake Charles are running at approximately 90% of what they were prior to the change. The dismissal rates seem a bit lower; the lift stays are not as frequent; and overall, the plan payments seem to be a bit higher (even discounting the fact that the house note is now in many plans). It does appear that the Lake Charles filings have increased over time to make up a larger percentage of total Chapter 13 filings prior to the law change. Overall, matters seem to be moving along rather smoothly. But I will note two current concerns in the Trustee's office.

In most instances, the communication between debtor's counsel and the Trustee or Trustee's counsel on the day prior to court hearings has streamlined the process greatly. Information goes both ways resulting in several cases being confirmed without the necessity of hearing; motions being continued to future hearing dates along with amended plans; motions to dismiss being withdrawn, payments being brought current, etc.. However, this only works when the communication flows both ways. In some instances, we are talking to attorneys who simply use this as an opportunity to find out what is going on in their respective cases. This not helping the process. Counsel should have the docket reviewed in detail before contacting this office so that information can be exchanged. Without that, this is simply a waste of everyone's time.

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SLBBA Seminar & Christmas Party



The SLBBA will hold its annual seminar on Friday, December 14, 2007 at the Holiday Inn Holi-dome. The seminar will offer one hour of CLE for professionalism and one hour of CLE for ethics. The speakers for the seminar will be Gerald H. Schiff and Leslie Schiff. The seminar will take place from 4:00 p.m. to 6:00 p.m. The fee for SLBBA members to attend the seminar is \$20.

The annual SLBBA Christmas party will be held following the seminar, starting at 6:00 p.m. Entertainment and dinner will be provided. A cash bar will be available. The fee for the Christmas party is \$25 per person. Members are encouraged to bring their spouses or other guests to the Christmas party.

For Your Information

Deadline for Articles

Anyone wishing to submit articles or jokes for inclusion in the January newsletter should have the articles to me no later than December 21, 2007.

Lunch with the Judge

Friday, January 18, 2008, at noon at Don's Downtown

Thursday, February 21, 2008, following court in Lake Charles

Editor's Comments

Well, by the time that you read this, our website may be live. If not, it will be soon. Check it out at www.slbbba.com. If you have suggestions for forms, legal links, etc. to add to the website, just let me know. We are very excited about the new website and we hope that you'll use it. The newsletter (both current and past issues) will be made available on the website. I still intend to mail copies out to the SLBBA members, as least until people become comfortable with viewing it online. If you have a preference, please let me know.

You'll notice that we've scheduled our Christmas party and seminar for December 14. The seminar will offer both ethics and professionalism and will be just before the Christmas party. Please, please, try to attend both. And don't worry, we do still plan to have an annual golf tournament. We have just moved it to the spring. The plan is to have

a half day seminar followed by the golf tournament in April.

We haven't had very good attendance at our recent lunches with the judge. I'm not sure if everyone's schedule has just been too busy or if everyone is just not interested in attending. If there is some reason that you aren't interested in attending the luncheons, please let me know. If you don't like the location, days that they are held, "entertainment", the items presented, etc., please let me know so that we can make some adjustments. Seriously folks, we miss you!

Sorry, I don't really have any new movie reviews to offer. I just haven't been to the movies lately. I do plan to see quite a few during the upcoming holidays so if you have suggestions, please let me know.

To Get Bankruptcy In Brief:

If you would like to receive copies of Bankruptcy in Brief in the mail, you may either send me self-addressed stamped envelopes or join the SLBBA. Copies of the newsletter are mailed free of charge to SLBBA members. To get an application for membership, please contact me.

To contact the editor:

Phone..... (337)262-6383

Fax.....(337)262-6382

e-mail.....alice_dukes@lawb.uscourts.gov
or alicedukes@hotmail.com

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Another issue which recently arose was the receipt in our office of amended plans along with motions to shorten the notice period. There was no "emergency" reason stated for shortening the notice period but simply that the Trustee was the only remaining objector and this modification cured the objection. Such a statement is not really in keeping with the spirit of motions to shorten the notice period. When there are emergencies sufficient to shorten the notice period, the Trustee's staff will do everything within its power to timely review plans, etc., so that all issues can be brought up at the hearing. However, with all of the paper (and virtual paper) we have to deal with in this office, pulling a file out of its regular place in the chain can create some difficulty. Therefore, I would request that you only seek to shorten the notice period for real emergencies. Additionally, in discussing this matter with Alice, I believe the Judge's office will now take the position that on any motion to shorten notice period, you will have to seek the Trustee's approval. Let me state

unequivocally that without a real emergency, we will not approve shortening the notice period.

Another issue that has come to my attention has to do with home mortgage payments whether direct or through the Trustee. We have several instances where the creditor files a proof of claim seeking an arrearage amount higher than the amount stated in the plan. In some instances, the creditor does not object to confirmation. Debtor's counsel moves the matter forward and gets the plan confirmed without the increase. Consequently, should your client be successful at completing the plan, they WILL NOT have cured arrears. This is a disservice to the debtor. Unless the debtor's budget is so tight that they cannot afford anymore money and the debtor is not interested in being current at discharge but, rather, wants to buy time with the automatic stay then that may not be a great concern. However, where those factors don't exist, I believe counsel has a duty to either object to the proof of claim or amend the plan whether or not the Trustee or a creditor files any sort of objection.

Talk to you later!!!

Are You from Louisiana? Here are some ways to tell...

Your sunglasses fog up when you step outside.

You reinforce your attic to store Mardi Gras beads.

You don't look twice when you see pink flamingos in yards of nice subdivisions during Mardi Gras.

You save newspapers, not for recycling, but for tablecloths at crawfish boils.

Your ancestors are buried above the ground.

You drink Community coffee, but tried Starbucks and didn't see what all the fuss was about.

You take a bite of five-alarm chili and reach for the Tabasco.

Every once in a while, you have waterfront property.

You sit down to eat boiled crawfish and your host says, "Don't eat the dead ones", and you know what he means.

You don't learn until high school that Mardi Gras is not a national holiday.

You push little old ladies out of the way to catch Mardi Gras beads.

Little old ladies push YOU out of the way to catch Mardi Gras beads.

You believe that purple, green, and gold look good together.

Your last name isn't pronounced the way it's spelled.

You know what a nutria is, but you still pick it to represent your baseball team.

No matter where else you go in the world, you are always disappointed in the food.

You know that Tchoupitoulas is a street and not a disease.

Your grandparents are called "MawMaw" and "PawPaw".

Your Santa Claus rides an alligator and your favorite Saint is a football player.

You cringe every time you hear an actor with a Southern or Cajun accent in a "New Orleans-based" movie or TV show.

You're walking in the French Quarter with a plastic cup of beer.

When it starts to rain, you cover your beer instead of your head.

You've eaten at one or more of these restaurants and know how to pronounce them: Tujacques, Galatoire's, Ralph & Kacoo's, Brunet's or Mulatte's.

You call home just to find out what your momma is having for supper tonight.

FROM THE PRESIDENT

By W. Simmons Sandoz

Our Luncheon with the Judge took place at Don's Downtown on Friday, October 19, 2007, at noon. Our corporate sponsor for the event was Psychic 8 Ball. Our sponsor was promoting its latest high tech gadgetry which can predict the future of all Chapter 13 hearings. For detailed information on our corporate sponsor's new invention, see elsewhere in the Newsletter, "And now a word from our sponsor . . ."

BANKRUPTCY WORKING GROUP

The minutes of the most recent Working Group meeting are as follows:

THE BANKRUPTCY WORKING GROUP (BWG)

**MINUTES OF MEETING HELD ON WEDNES-
DAY, SEPTEMBER 12, 2007**

JUDGE ROBERT SUMMERHAYS' CHAMBER

LAFAYETTE, LA @ 1:30 P.M.

Present: Judge Robert Summerhays, Alice Dukes, Greg DeKeyzer, Herman Wessels, Ham Chauvin, and Sim Sandoz

The items on the agenda and discussions were:

MOTIONS TO DETERMINE STATUS OF HOME LOAN OBLIGATION

A lengthy discussion took place regarding the issue of additional fees, expenses and charges

on a home loan during the pendency of a Chapter 13 proceeding. Concern was expressed about the proper approach to determine whether the mortgage indebtedness is current. Herman Wessels will provide the group about information from the Bankruptcy Court in the Northern District of Tennessee to allow the group to compare alternative proposals.

DISCHARGE PROCEDURE

The group is reviewing different discharge procedures in different courts.

CARE PROGRAM

The group reviewed the group size when making a presentation. It was suggested that presentation to a smaller group would be more effective as opposed to a large group in an auditorium setting. We will attempt to institute this program in the Spring.

WEBSITE

Alice has obtained the services of Acadiana Consultants to construct the website. She requests that any forms or pleadings be emailed to her for inclusion in the website. In addition, the website contain various links to other helpful websites.

WRITTEN SUMMARY

Judge Summerhays has been on the bench for more than one year. It was suggested that a summary of his significant rulings as well as his implementation of procedural changes would be summarized to be put on the website.

AND NOW A WORD FROM OUR SPONSOR.....

PSYCHIC 8-BALL

As Debtor's counsel, do you feel at Chapter 13 confirmation hearings you are constantly behind the 8-Ball? In an effort to speed up the confirmation docket, we at "Psychic 8-Ball" have developed a fool proof procedure wherein you know the outcome of any hearing before it happens. Psychic 8-Ball knows all, sees all, and is clairvoyant. The planets always lined up with Psychic 8-Ball. Psychic 8-Ball will respond to any bankruptcy question, dilemma, or perplexing circumstance. Psychic 8-Ball will give quick concise one-liners in dealing with all your questions including bogus plans, bad-faith filers, and repeat offenders in Chapter 13. Here are a select few sampling of how this high-tech gadgetry works.

Q. I, as an attorney, have no bankruptcy experience. A client came in with \$2,500 in cash and wanted to file a Chapter 13. I have never filed a Chapter 13 before, but I needed the money. What should I do?

A. Increase your malpractice insurance limits immediately.

Q. My client has filed four (4) bankruptcies in the last eight months. He spent his income tax refund on gambling. After he got caught, he called the Chapter 13 Trustee's office and used foul and abusive language to one of the case administrators, and said some ugly things about Mr. Chauvin. What will happen on the motion to dismiss?

A. Do the math - $109(g) + 349(a) = 458$

Q. My client has been in a Chapter 13 for two years. He has an investment opportunity which he wants me to join in. I am concerned about the ethics of this. What do you think?

A. You have serious mental issues. Both you and your client need to be admitted in to the psychiatric ward at Opelousas General Hospital.

Q. My client has requested a payout from the Chapter 13 Trustee. He has applied for a loan to payout the bankruptcy and wants me to co-sign. What would you suggest?

A. Are you on drugs? You need intense therapy. Interdiction is also a possibility.

Q. My client has engaged me to file a Chapter 13. He is the most honest person that I have ever met. I am seriously considering not filing a bankruptcy for him, paying off all of his bills and having him sign a promissory note. What are your thoughts?

A. You need a reality check pal. I would suggest you return your license to the Bar Association immediately and apply as a bagger at a local grocery store or work on the back-end of a garbage truck.

Just think . . . with Psychic 8-Ball, you will never get blind sided, caught off guard or hammered in open court. You will know the outcome before it happens.

If you call now, we will ship a Psychic 8-Ball to you by Express Mail. You can pay in three easy installments of \$39.95 and we will pay for the postage. Call now TOLL FREE - 1-800-8-BALL.