

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

As I have advised on more than one occasion in the past, the payment of home mortgages through the Chapter 13 plan seems to be going rather smoothly. However, as we gain more experience in this area, this office also notes that this is an evolving process which will, hopefully, improve over time. One area that clearly needs improvement is to have much more specificity in the plan as to which month the regular mortgage payment should begin and/or the last month to be included in the arrears. This will put the mortgage creditor on notice as to how they are to apply the payments they receive from this office.

This became evident when I recently had an opportunity to review a Detailed Transaction History from one of the creditors. It involved a case filed on July 14, 2006 with the first payment due in the plan on August 14. This was one of the earlier cases in the process so we did not obtain an Adequate Protection Order until November. So on December 1, we disbursed four payments based upon the funds received in August, September, October, and November. Naturally, because there is a thirty day delay in getting the first payment, we always assumed that these four payments would be applied to September, October, November, and December. However, when we reviewed the Detailed Transaction History we saw that the creditor applied the payments (and rightly so) to August, Septem-

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Attorney Fees

It recently came to the attention of the court that numerous chapter 13 debtors' attorneys were charging the over-median no-look fee for under-median debtor cases. The court has established the \$2,250 for under-median and \$2,500 for over-median debtors as the standard no-look fee. The difference was intended to take into account the extra work generally required for cases involving over-median debtors. However, it seems that some attorneys were taking advantage of the difference in fees as well as the fact that the fees weren't being closely monitored to merely charge \$2,500 in all of their cases. While it does seem likely that some instances were oversight, that does not appear to be the case in the majority of the cases. The court expects counsel to affirmatively take steps to review their cases and make the appropriate remedial actions immediately. The judge's current policy is that if a case comes up in court with the incorrect fee stated, fees will be reduced to \$2,000. The court intends this penalty to be temporary—if this problem continues, harsher penalties could be imposed.

910 Cases Currently at Fifth Circuit Level

Several cases involving the issue of whether a creditor holding a security interest in a 910 vehicle is entitled to an unsecured deficiency claim when the vehicle is surrendered are currently at the Fifth Circuit level. These cases are being closely monitored as any ruling from the higher court could impact a large number of chapter 13 cases. We'll give you an update when a decision is reached.

For Your Information

Deadline for Articles

Anyone wishing to submit articles or jokes for inclusion in the September newsletter should have the articles to me no later than September 10, 2008.

Lunch with the Judge

Friday, September 12, 2008, noon, Don's Downtown

Monday, October 6, 2008, noon, Don's Downtown

Thursday, November 13, 2008, in Lake Charles following court

LSU Bankruptcy Seminar

The annual LSU Bankruptcy Seminar will be held on October 9-10, 2008, in Baton Rouge. For more information, go to www.law.lsu.edu. We look forward to seeing everyone there!

Action-Packed September Docket

The court has a fairly busy September calendar with several multi-day contested hearings and trials scheduled. While we will still have our regular court hearing dates, if you need a special fixing, please contact us as far in advance as possible so that we can accommodate you.

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.

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ber, October, and November. Therefore, every payment we made in the case was thirty days late. At this point, I am unable to discern whether or not any late charges have been applied on this account but this is an area that needs more scrutiny.

This problem could have easily been solved by notifying the creditor that arrearages were included through August. This would be prepetition arrearages through July plus one month of a post petition arrearage payment - a situation easily discernable both by this office and by the creditor who received notice of this plan. Therefore, I urge you to be much more careful in the future as to the language used in your plans. For uniformity sake we will be objecting to those plans where specificity is lacking.

One other concern that you need to be mindful of is our disbursement procedure. Believe it or

not, even doing wage deductions we have had NSF checks from employers. Consequently, we do not disburse payments received during the last week of any month (25th forward) on the 1st of the following month. Rather, those payments are held an additional month. Therefore, if your plans are filed during that last week, you may want to include one additional month of post petition arrears along with your pre petition arrears and so advise on the plan.

If counsel can take a little extra time to clarify the terms of the plan, it will go a long way towards seeing to it that your client's mortgage payments remain current throughout the term of the plan and that upon conclusion of the case your clients are truly current with their mortgage creditor.

TALK TO YOU LATER!!!!!!!!!!!!!!

Three Nickels

A father walks into a restaurant with his young son. He gives the young boy 3 nickels to play with to keep him occupied. Suddenly, the boy starts choking, going blue in the face.

The father realizes the boy has swallowed the nickels and starts slapping him on the back. The boy coughs up 2 of the nickels, but keeps choking. Looking at his son, the father is panicking, shouting for help.

A well dressed, attractive, and serious looking woman, in a blue business suit is sitting at a coffee bar reading a newspaper and sipping a cup of coffee. At the sound of the commotion, she looks up, puts her coffee cup down, neatly folds the newspaper and places it on the counter, gets up from her seat and makes her way, unhurried, across the restaurant.

Reaching the boy, the woman carefully drops his pants; takes hold of the boy's testicles and starts to squeeze and twist, gently at first and then ever so firmly. After a few seconds the boy convulses violently and coughs up the last nickel, which the woman deftly catches in her free hand.

Releasing the boy's testicles, the woman hands the nickel to the father and walks back to her seat in the coffee bar without saying a word.

As soon as he is sure that his son has suffered no ill effects, the father rushes over to the woman and starts thanking her saying, "I've never seen anybody do anything like that before, it was fantastic. Are you a doctor?"

"No," the woman replied. "Divorce attorney."

Mensa Words

The Washington Post's Mensa Invitational once again asked readers to take any word from the dictionary, alter it by adding, subtracting, or changing one letter, and supply a new definition.

Here are this year's winners. Read them carefully. Each is an artificial word with only one letter altered to form a real word. Some are terrifically innovative:

1. Intaxication: Euphoria at getting a tax refund, which lasts until you realize it was your money to start with.

2. Reintarnation: Coming back to life as a hill-billy.

3. Bozone (n.): The substance surrounding stupid people, that stops bright ideas from penetrating. The Bozone layer, unfortunately, shows little sign of breaking down in the near future.

4. Cashtration (n.): The act of buying a house, which renders the subject financially impotent for an indefinite period of time.

5. Giraffiti: Vandalism spray-painted very, very high.

6. Sarchasm: The gulf between the author of sarcastic wit and the person who doesn't get it.

7. Inoculatte: To take coffee intravenously when you are running late.

8. Hipatitis: Terminal coolness.

9. Osteopornosis: A degenerate disease. (This one got extra credit.)

10. Karmageddon: It's like, when everybody is sending off all these really bad vibes, right? And then, like, the Earth explodes and it's like, a serious bumper.

11. Decafalon (n.): The grueling event of getting through the day consuming only things that are good for you.

12. Glibido: All talk and no action.

13. Dopeler Effect: The tendency of stupid ideas to seem smarter when they come at you rapidly.

14. Arachnoleptic Fit (n.): The frantic dance performed just after you've accidentally walked through a spider web.

15. Beelzebug (n.): Satan in the form of a mosquito, that gets into your bedroom at three in the morning and cannot be cast out.

16. Caterpallor (n.): The color you turn after finding half a worm in the fruit you're eating.

And the pick of the lot:

17. Ignoranus: A person who's both stupid and an asshole

Last year I replaced all the windows in my house with that expensive double-pane energy efficient kind, and today, I got a call from the contractor who installed them. He was complaining that the work had been completed a whole year ago and I still hadn't paid for them. Hellloooo.....just because I'm blonde doesn't mean that I am automatically stupid. So, I told him just what his fast-talking sales guy had told me last year, that in ONE YEAR these windows would pay for themselves! Helllooooo? 'It's been a year,' I told him. There was only silence at the other end of the line, so I finally just hung up. He never called back. Guess I won that stupid argument! I bet he felt like an idiot.

Marriage is a relationship in which one person is always right, and the other is usually the husband. When our lawn mower broke and wouldn't run, my wife kept hinting to me that I should get it fixed. But, somehow I always had something else to take care of first: the truck, the car, e-mail, fishing, always something more important to me.

Finally she thought of a clever way to make her point. When I arrived home one day, I found her seated in the tall grass, busily snipping away with a tiny pair of sewing scissors. I watched silently for a short time and then went into the house. I was gone only a few minutes. When I came out again I handed her a toothbrush. "When you finish cutting the grass," I said, "you might as well sweep the driveway."

The doctors say I will walk again, but I will always have a limp.

A cowgirl, who is visiting Texas from Arkansas, walks into a bar and orders three mugs of Bud. She sits in the back of the room, drinking a sip out of each one in turn. When she finishes them, she comes back to the bar and orders three more. The bartender approaches and tells the cowgirl, "You know, a mug goes flat after I draw it. It would taste better if you bought one at a time."

The cowgirl replies, "Well, you see, I have two sisters. One is in Australia, the other is in Dublin. When we all left our home in Arkansas, we promised that we'd drink this way to remember the days when we drank together. So I'm drinking one beer for each of my sisters and one for myself."

The bartender admits that this is a nice custom, and leaves it there.

The cowgirl becomes a regular in the bar, and always drinks the same way. She orders three mugs and drinks them in turn.

One day, she comes in and only orders two mugs. All the regulars take notice and fall silent.

When she comes back to the bar for the second round, the bartender says, "I don't want to intrude on your grief, but I wanted to offer my condolences on your loss."

The cowgirl looks quite puzzled for a moment, then a light dawns in her eyes and she laughs.

"Oh, no, everybody's just fine," she explains, "It's just that my husband and I joined the Baptist Church, and I had to quit drinking. Hasn't affected my sisters though."