

October 13, 2005

Consumer Bankruptcy Sub-Committee of the Debtor/Creditor Section of the Oregon State Bar

"Circle of Love", Minutes of October 13, 2005

Thank you to George Hoselton's office for providing snacks. Todd Trierweiler's office will provide food for our next meeting on November 17, 2005.

The following issues were addressed at this meeting.

Trustee's Announcements

Brian Lynch announced that the Trustee's office will show the DVD on BAPCPA from a lecture put on by Judge Lundin and Chapter 13 Trustee, Hank Hildebrant, at the NACTT seminar. The four hour DVD will run on October 28th from 9:00 to 11:00 and 12:00 to 2:00. One general CLE credit is given for each hour attended and the viewing is free.

Brian Lynch took suggestions on scheduling for 341(a) hearings. He plans to apply to become a financial counseling provider. If approved, he will provide the class at no additional charge to debtors from 11:30 to 2:00. 341(a) hearings will begin at 8:30 a.m to accommodate the financial education class.

When filing Proof of Claims, the Court will only scan the first six pages, including the Proof of Claim. Therefore, it is important that any pages that you would like the Trustee's office to see be contained within the first six pages.

A new general order on Wage Orders requires debtor's attorneys to file a Wage Order within seven days of the 341(a) hearing unless debtor's counsel orally requests a waiver of the 341(a) hearing and the Trustee's office agrees. The Trustee's office will direct changes in the Wage Order and stop Wage Orders if a case has been dismissed.

Wayne Godare reminds the Bar to use the precon (precon@portland13.com) and postcon (postcon@portland13.com) e-mail addresses when emailing documents to the Trustee's office. The Trustee's office will respond to your e-mail so you can be sure they received the documents you were e-mailing.

If you have questions, you can e-mail Wayne directly at wayneg@portland13.com. This is often a faster way of getting hold of him than by telephone.

IRS Announcements

Jeffrey Werstler of the IRS encourages the Bar to use online requests for tax transcripts. Their link will be up on the Court's web site soon. In addition, debtors can request their tax transcripts over the telephone, and they will be sent to the debtor's last known address, or the debtor can walk into the main floor of the Federal Building and request tax transcripts. If you file more than five electronic requests per year, you may be eligible to sign up for a transcript delivery service. With this service, the attorney would fax a Power of Attorney to the IRS and then the IRS would provide the transcripts to the debtor's attorney.

Mr. Werstler reminded the committee that the Philadelphia address is the proper address to list on the mailing matrix for both Chapter 7 and 13's.

The IRS's insolvency department has been directed to examine debtors that continue to run up additional income tax debt while in a bankruptcy. The IRS will examine debtor's W-2 and may instruct the employer to reduce the exemptions to single with one exemption.

The IRS will also be looking at exempted and excluded property more closely to setoff pre-petition tax liability. If the IRS determines that a taxpayer has been flagrant, they may try to collect against exempt and excluded assets, such as a retirement plan. For more information, you can refer to the IRS manual in the section on serving levies on retirement income. The IRS will consider how much income the taxpayer is likely to not need in the immediate future and will collect from it. They will also consider how much of the retirement the debtor is expected to need under these guidelines.

General Announcements

Judge Dunn announced that another general order will be released in about 30 days, but that it would be a six month process where input would be sought out, and the Court will not submit Orders to the District Court for approval for six months.

Check in frequently with the Court's web site for updated forms.

Debtor's attorneys may look to take some pro se cases that present with problems through the Bankruptcy Clinic.

The committee discussed that plans filed now but modified later will still be treated as entirely under the old laws.