

**The Consumer Bankruptcy Committee of the Debtor-Creditor Section
Minutes – March 15, 2007**

Thank you to Clarke Balcom for providing refreshments. VandenBos and Chapman will bring snacks for our next meeting on May 17, 2007.

The following issues were addressed at the meeting:

A. Chapter 13 Trustee Announcements

1. HOA Claims

Brian Lynch, Ch 13 Trustee, requested that debtors' attorneys notify his office when a foreclosure has occurred on a property that has HOA fees being paid through the Plan. Payments on the HOA claims will not be stopped simply because a Motion for Relief has been granted; rather they will continue to be paid until the foreclosure has actually occurred.

2. Split Claims and Supplemental Attorney Fees

Creditor attorney in a recent case objected to debtor's attorney's supplemental fee request because, after the permo portion of the split claim was paid, creditor would not be receiving any funds until attorney fees were paid (second part of the split claim called for "all available funds after attorney fees"). The attorneys compromised by re-splitting the claim. Mr. Lynch stated that such treatment requires a modified plan, as the Trustee's accounting system is not able to process the payments correctly otherwise.

3. Chapter 7 Trustee Claims in Converted Cases

Mr. Lynch announced that his office will not be issuing objections to administrative claims filed by Chapter 7 trustees in converted cases. Sometimes those administrative claims will extend the length of the plan. Debtors' attorneys should be reviewing those expenses and objecting if necessary.

4. Sale or Refi Language

Mr. Lynch discussed two options for including sale or refi language in Ch 13 plans: (1) either note it up for approval by the court, or (2) use the standard language in the plan which calls for Trustee's permission. Debtors need to represent that the sale is an arms-length transaction for fair value. The Trustee's office is looking at the standard language and the sale or refi process and may be modifying the standard language in the future. Check the Trustee's website frequently for updates to standard language.

5. Missed Plan Payments

Trustee Motions to Dismiss for missed plan payments can be resolved with modified plans including “last chance” language.

B. Debtor/Creditor Website

Tom Renn, on behalf of the Debtor/Creditor Section, announced that there is a new webmaster for the Section’s website, and it is in the process of being updated and restructured. He requested that each Committee of the D/C Section appoint a website liaison to keep the website current and accurate.

C. US Trustee’s Report

1. 341(a) Hearings

Pam Griffith spoke on behalf of the US Trustee’s office. She reported that several attorneys have complained about the length of 341(a) hearings which cause the schedule to get backed up. The UST’s office will be reducing the number of hearings per half hour to alleviate this problem. Also, attorneys can assist by having all the documents ready to hand to the trustee, by getting to the hearing room early and requesting the debtors to arrive early. Ann Chapman recommended that more signs be posted in the hearing rooms about having ID’s and documents ready to hand over. (As of this writing, such signs have been posted).

Trustees are setting over hearings because of debtors’ failure to provide required documents in advance (i.e. tax returns and pay stubs). Trustees are requesting DSO notices, bank statements and pay advices in advance when possible. Also, debtors’ attorneys are asked to inform the case trustee if the debtor was not required to file tax returns.

Pam also stated that the hearings are going longer because the UST is attending more hearings. They are looking at each filed case and scrutinizing them more thoroughly than in the past due to Means Test issues.

2. Means Testing

The UST’s office has been using the IRS guidelines for testing abuse under § 707(b). This method gives the debtors the higher of actual or IRS expenses.

D. Chapter 13 Fee Increases

Kathryn Eaton reported from the sub committee working on getting the attorney fees increased in Chapter 13 cases. The subcommittee met with Judge Perris and Brian Lynch and reached an agreement for the short term:

Fixed fees for the life of the case will remain at \$4,000. The rationale for no change is that the majority of attorneys using this option are outside of the greater Portland area where hourly rates are lower and firms tend to be smaller. This option reduces the amount of record keeping burden on such small firms.

The maximum fixed fee prior to confirmation will be increased from \$2,500 to \$3,000 effective May 1, 2007. This will enable the court time to modify the attorney fee disclosure form. Check the court's website for updated forms at that time.

The group decided to table a decision regarding fee increases for cases that are fully itemized. The Court wants to examine the entire Chapter 13 process in light of the fact that our region has some of the highest Chapter 13 fees in the country. The Court needs to understand if there are process differences underlying this fact and if so, if there are ways to streamline or change those processes to reduce the cost of Chapter 13 cases to our debtors.

E. Miscellaneous Announcements

Judge Perris recently issued an opinion in *In re Lane* wherein she decided that proceeds from sale of a home that occurs post-petition do not have to be reinvested within one year in order to preserve the homestead exemption. If the debtors are holding onto proceeds prior to filing, those need to be reinvested within one year of sale or lose their homestead exemption status.

Our next meeting is set for Thursday, May 17th at 4:30 pm in the judges' conference room on the 8th floor of the bankruptcy court. Please send agenda items to Laura Donaldson at ldonaldson@comcast.net.