

March 24, 2009 www.orb.uscourts.gov

Recent Opinions

McKay v. Ingleson, Adv. No. 06-3182-tmb

In Re McKay, No 03-36285-tmb7

February 23, 2009

11 USC 523(a)(8)

The Ninth Circuit affirmed the bankruptcy court and district court, both of which had held that a debt owed pursuant to a "Graduate and Professional Student Account and Deferment Agreement" was a student loan within the meaning of section 523(a)(8) and therefore excepted from discharge in debtor's chapter 7 case.

In re Mandalides, No. 08-32091-tmb13, Appellate No. OR-08-1189-MoJuMk

March 2, 2009

11 USC 362, FRBP 8009(b)

Debtor responded to bank's motion for relief from stay to foreclose on collateral by claiming the debt was unsecured and the underlying contract was invalid. The bankruptcy court ruled in bank's favor and made specific findings about the note, the deed of trust, debtor's default, and lack of equity in the property. The BAP affirmed.

In re Stewart, No. 08-33275-rld7

March 11, 2009

11 USC 707(b)(2), 707(b)(3)(B) and 707(b)(2)(A)(iii)(I); presumption of abuse, means test, totality of circumstances, surrender of collateral

The bankruptcy court denied unsecured creditor's motion to dismiss this chapter 7 case on two grounds. First, although the debtors had surrendered their residence, they could still deduct their monthly mortgage payment in calculating their monthly disposable income. Second, the totality of the debtors' financial circumstances made them able to pay only a minimal dividend on unsecured claims through a chapter 11 plan over 5 years.

Click on Opinions (the last item in the column headed **Information for Attorneys**), for two search options. Clicking on To view a list of all current opinions takes you to a list of opinions organized by date, most recent to oldest. Entering a search term in the box on the Opinions page produces a list of results. Search logic for opinion searches appears on the Opinions page.

The Opinions page now has an improved display of search results, showing case name and number, opinion date and file size. Click on the portion of the opinion shown to see the full opinion in searchable pdf format.

The Clerk's office continues to work on the Opinions search feature.. If you have specific suggestions for improvement, please let me know.

PREVIOUSLY PUBLISHED ITEMS:

The following is a summary of items added in the past several weeks.

ECF Upgrade

The court is upgrading to ECF version 3.3, which will go into action on Monday, **March 30**. ECF will be unavailable from Friday evening, March 27, through Sunday, March 29.

Details about ECF 3.3 are on the site; click on either "3/10/09 – ECF 3.3 Upgrade" under **Court News and Announcements**=2 0or, under the heading **ECF**, on **ECF 3.3**, then "What's New in Release 3.3."

ECF Training

Lawyers get 4 CLE credits for ECF training. Sessions run from 8:30 am to 12:30 pm. The currently scheduled training dates for **Eugene and Portland** are April 23, May 20 and June 18.

ECF Online Manual

The Style Guide was updated January 28, 2009. Under ECF at top of home page, click on Online Manuals, then Basic, then "Style Guide."

Chapter 7/13 Relief from Stay Hearings

Schedules for these hearings now appear on the Judges' Calendars page, which can be found either under **Calendars** or **Information for Attorneys** on the main page.

Local Bankruptcy Forms

Several LBFs have been updated since the first of the year. On the home page, click on **Rules & Forms**, then **Local Bankruptcy Forms**, to access all local forms.

Unclaimed Funds

The Petition for Unclaimed Funds was updated December 1, 2008. The Unclaimed Funds Reports (4/1/08 through 12/31/08 and Full Report Through 12/31/08) were updated on January 20, 2009.

General Order #09-1

GO #09-1 was posted to the site on January 27. It orders numerous changes to Local Bankruptcy Rules. It can be found under **Rules and Forms**, "Oregon US Bankruptcy Court General Orders (GO)."

Local Bankruptcy Rules

The following local rules were updated on January 27, 2009, in accordance with GO #09-1: 1002-1(b), 1080-1, 2002-1(j) and 7026-1(f)

Message from Clerks Office

Please **do not modify** the fixed text in a local bankruptcy form (LBRs 1001.1.F. and G.)! If adequate room does not exist in any area, attachment pages may be added to the end of the form for inclusion of essential text.

Debtor-Creditor Section Website

An archive of these court updates is maintained on the Debtor-Creditor Section website at <http://www.osb-dc.org/orb.htm>.