

September 29, 2009 www.orb.uscourts.gov

Recent Opinions

Kiefer v. Northwest Community Credit Union, Adv. No. 09-6105-fra

August 17, 2009

Failure to redeem or reaffirm, BAPCPA change to “ride through,” subject matter jurisdiction.

The bankruptcy court granted a motion to dismiss for lack of subject matter jurisdiction to the party that financed debtor’s vehicle. Debtor had not specified reaffirmation or redemption of the vehicle on his Statement of Intention. Under BAPCPA, the court held, this failure to specify made the vehicle no longer property of the estate and no longer subject to the automatic stay.

In re Wishon, Case No. 09-31219-rld13

August 12, 2009

Automatic stay (reinstate), excusable neglect, FED action, FRBP 9024, FRCP 60(b)(1) and (c)(1)

The court denied the debtor’s motion to reinstate the automatic stay on grounds of excusable neglect. The stay had been lifted under a default order and the debtor thereafter unsuccessfully defended an FED action in state court. The bankruptcy court found that the debtor’s claim of no notice of the original relief from stay motion was not credible, and further that the debtor’s delay in seeking reinstatement of the stay resulted in prejudice to the creditor who prosecuted the FED action.

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.

PREVIOUSLY PUBLISHED ITEMS:

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

Mortgage Modification Forms

New LBF #751.7 and revised LBF #1350.05 are posted on the website, per General Order 09-3. They can be found by clicking on **Rules & Forms** at the top of the home page, then Local Bankruptcy Forms.

ECF Training

Currently scheduled training dates for **Eugene and Portland** are October 22, November 18 and December 10. Lawyers get 4 CLE credits for ECF training. Sessions run from 8:30 am to 12:30 pm. **The Clerk’s office will add ECF classes if there is sufficient demand.**

General Order 09-3

Judge Perris signed GO 09-3 on August 17, to be effective August 31, 2009. It amends

LBR 6007-1 and adds text to LBR 4008 as 4008-2. It relates to abandonment of real property and modification of debt secured by debtor's residence.

Job Opening

The Court is seeking candidates for Clerk of the Court, a position which will be open in January 2010. This is a high-level management position under the direction of the Chief Judge of the Bankruptcy Court. Applications must be received by October 2, 2009, to ensure consideration, but the position is open until filled. Click on "8/3/09 – Clerk of Court Vacancy" under **Court News and Announcements** on the home page for more details.

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>.