



The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

Office of the Chapter 13 Trustee

Volume I, Issue I
June, 2005

Are my liabilities going to be more?

Will my fees go up for the increased liabilities and work I do?

Do domestic debts get paid ahead of my fees, mortgage payments, etc.?

How do I run a "means" test?

What I.R.S. expenses can I use and where do I find them?

Since I cannot cram down the value of a car purchased within the last two and half years, what are my options?

Is the recommended Chapter 13 Plan changing?

WE HAVE ANSWERS!

The **Office of the Chapter 13 Trustee** will be sponsoring a seminar

Friday, September 9, 2005

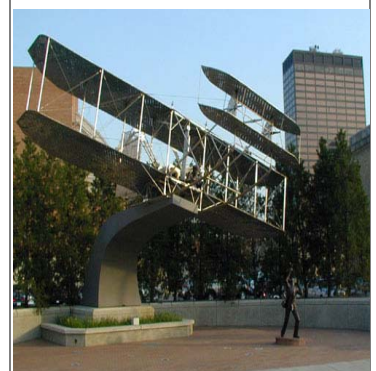
to help answer all of these questions and more.

Make sure to clear your calendar for this special event.

C.L.E. will be available

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TIPS FROM THE DEPARTMENTS

PRE-CONFIRMATION DEPARTMENT



Remember **do not** submit orders on pre-confirmation modifications. The Chapter 13 Office will prepare and file the initial confirmation orders. If it is a post-confirmation modification, Debtor's attorney is responsible for filing the order.

We are receiving ECF items without names and/or case numbers. Just a reminder that when you file anything with Court, do not forget to put the Debtor's first and last name and case number on your pleading or order.

Remember any time a modification is filed either increasing or decreasing a plan payment, Local Rules require the filing of new Schedules I and J. Please file these

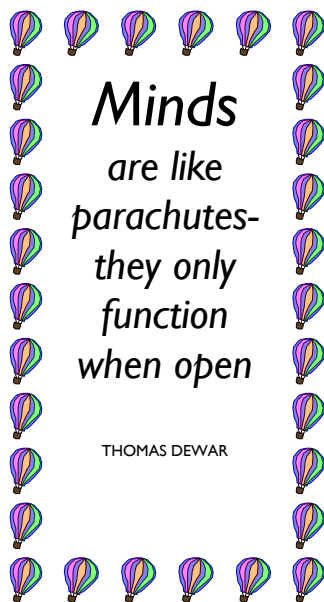
schedules to avoid unnecessary delay and objections from our office.

When filing your modifications, please make sure to watch the confirmation consent dates. We are receiving a lot of modifications that have incorrect dates due to time periods not being long enough or with dates listed are for the wrong judge. These hearing dates are posted on our website if you have any question as to which date needs to be used for which judge.

We have a "Motion for Modification of Plan and Notice" form. This form is self-explanatory and makes filing and working the modification easier for your office and ours. If you do not have this form,

please go to www.dayton13.com under forms for the download. This form is much easier for us to work than when an "Amended Plan" is filed. The form also includes the Certificate of Service, 20 day notice and blanks to fill in Judges' hearing dates.

When filling out your attorney statement fee disclosure, if you take a retainer, remember to subtract that retainer from your fee. In other words, if you want the Trustee to pay \$1,400. and you took \$100. up front, the application should read \$1,500.-\$100.= \$1,400.



**Minds
are like
parachutes-
they only
function
when open**

THOMAS DEWAR

CLAIMS DEPARTMENT

On your schedules D, E and F, make sure to tell us if a creditor is to be a notice only claim. Do not just say "\$0.00" or "Amount Unknown".

In regards to objections to Proof of Claims and response to the objections, make sure that the correct telephone number where you want to be called for the conferences (including the extension number) is included. Additionally, please put the attorney's name and phone number that will be participating in the 7016 phone conference on the pleading. Too many of you are neglecting to put this vital information on the pleading.

Our Claims Analysts are receiving an average of 140

Proofs of Claim *PER DAY*, so please bare with us if claims do not appear on the website as they are filed.

If we contact or send you a letter stating that a claim is not filed (usually a mortgage claim), please make sure you file the claim on the mortgage holder's behalf or tickle it to yourself to follow and see that the mortgage company does file their Proof of Claim.

When objecting to claims, please be sure to reference the correct creditor name, Trustee claim number and Court claim number. Also, please include the secured and unsecured portion. This is also true for the orders. We have been receiving objec-

tions that only reference document numbers. This causes our staff to have to do a lot of research to determine which creditor is being objected to. There have been several times the claims department has had to decipher what the attorney is trying to do because the order does not state what to do with the secured and unsecured portion. We will err on the side of the creditor if we have to guess what you want.



CONFIRMATION, CLOSING & RECEIPTS DEPARTMENT

Receipts—Please remember to have your clients place their name and case number on their payments and any correspondence they send to our office or the lock box. Debtors receive a sheet of labels that include their name and case number for their convenience. Also, if a payment is for tax refunds, please have Debtors make a note of this to insure proper posting.

Closing—Just a reminder that cases converting to chapter 7 are converted by Notice. If they are done by Motion, an Order must follow after the 20 day notice period has expired. When cases are converted by Notice, the conversion is auto-

matic and nothing further needs done.

Dismissals are done by Motion and Order only. Notices will not dismiss a case. A Motion containing 20 day language must be filed and the Order must follow after the expiration of the 20 day notice period.

If a case is in the process of being reinstated by Motion, do not forget to submit your order of reinstatement after the 20 day notice period.

PLAN COMPLETION. In every case in which a Debtor is unable to repay all of their debts in full, the confirmation order provides that the Debtor must pay no less than three years of

payments. This is known as the “base” minimum total amount of money that will be paid into the Plan. The confirmation order sets forth the minimum payment (20%, 70%, etc.) which will be paid to the general unsecured creditors. The plan will not be completed until the plan pays a “base” to the Trustee or the minimum percentage payments, whichever is greater. In no event will the Debtor have to pay more to the Trustee than is necessary to pay off debts in full. This information is taken from the “Red Book” provided to each Debtor at the initial filing of a case and is available online at: www.dayton13.com under “Forms”.



Legal Department

March, 2005 we broke another record for the most chapter 13 cases filed within a single month. There were 330 cases filed that month. This means our office is busier than ever. With all the upcoming changes in legislation, we are preparing for the new Chapter 13 Plan and all the changes that it will entail. Make sure to check your schedule and plan on attending our informative seminar. This will lay the groundwork for all the upcoming changes in the Dayton Court.

Please make the most of our web site (see page 4) at: www.dayton13.com for important hearing dates, times and Court schedules. The Chapter 13 Confirmation, Consent and

341 schedules are available 24/7 for your review. This should be a useful tool when reviewing cases for hearing. Also, please make sure that when you do set a hearing date on a motion that you provide the correct Judge's date for that case. We have been receiving a lot of modifications with the incorrect Judge's date in the notice.

When upcoming hearings are set for Court and cases are resolved, the resolved case will no longer appear on the web site under the hearing docket. If you or a Creditor attorney are to provide an Agreed Order or Withdrawal, if that document is not filed with Court by the hearing date, the original matter will

automatically be reset to the next hearing docket for that Judge. If you or a Creditor Attorney provide that resolution before the continued date, the matter is automatically resolved and should not appear on our website and there will not be a continued hearing. If you have questions regarding this please contact Scott, ext. 137. If the resolution is not received by the reset date, please plan to attend the hearing and also have your clients attend.

Motions for no show will now go directly to hearing, once a response is filed by you. The 341, if reset by Court, will be immediately after the confirmation hearings.

*Life is an escalator:
You can move forward or backward;
you can not remain still.*

*Patricia Russell-McCloud
Motivational speaker*

Valerie Walker Pre-Confirmation Supervisor

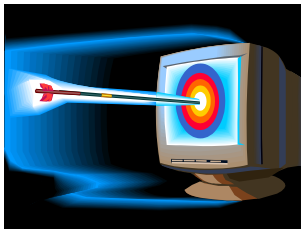


Valerie Walker, Pre-Confirmation Supervisor, started

working at the Chapter 13 Office in April, 1984. She came from Sears where she worked in the collection department

for nine years. Valerie began working in the Pre-Confirmation Department as an Intake Clerk. She now has five Pre-Confirmation Analysts, a Modification Analyst, Public Information Clerk, Noticing Clerk and Legal Clerk under her supervision.





COME

VISIT US AT: www.dayton13.com

JEFFREY M. KELLNER

Chapter 13 Trustee
Dayton, OH

Docket

Confirmation Hearings—This is the Court's docket that is updated daily.

Docket

Consent Docket—This is the Court's consent docket that is updated daily.

Docket

341 Docket—This is the 341 list updated weekly.

CASES SCHEDULED IN DAYTON, OHIO June 21, 2005
HONORABLE JUDGE LAWRENCE S. WALTER (updated:06/09/05)
PAGE: 1

| | | | |
|----------------|-----------------|--|--|
| WEST COURTROOM | 1:30 PM 9933806 | MENKER, III, CLARENCE J & MARSHA OBJ TO PLAN COMPLETION | ARTHUR R HOLLENCAMP STEPHEN D MILES |
| | 0138638 | PECK, JAMES RICHARD MOTION TO DISMISS FOR FAILURE TO MAKE PAYMENTS//RESPONSE TO MOTION TO DISMISS FILED 051305// | HAROLD JARNICKI JEFFREY M. KELLNER |

JUDGE WALTER

PAGE: 1 CONFIRMATION SCHEDULE FOR June 21, 2005 DATE: 06/09/05

| CASE | NAME |
|---------|----------|
| 0434326 | SPELLMAN |
| 0437302 | WOOD * |
| 0438605 | BUCKLEW |

CHAPTER 13 TRUSTEE
DATE: JUNE 14, 2005
341 MEETING SCHEDULE

| TAPE NO. | START | END |
|----------|-------------------------------------|----------------|
| TIME | CASE NO. DEBTOR | JUDGE ATTORNEY |
| 8:00 | 0534515 WOMACK, JIMMY L & CATHY M | W SLONE |
| 8:00 | 0534562 STANBACK, AARON A | W SLONE |
| 8:00 | 0534446 MOUSER, ASHLEY J | W ALBERT |
| 8:00 | 0534457 CULVER, ROBERT S & ANDREA M | W ALBERT |

Hearing Dates

UPCOMING CHAPTER 13 HEARING DATES

Effective April 29, 2003

341 Hearings will be held at Bankruptcy Court, Suite 309

ALL hearings are held at 1:30

JUDGE WALDRON

APPROVED DATES:

JUNE 7, 2005

JULY 5, 2005

AUGUST 9, 2005

AUGUST 31, 2005 (9:00 A.M. - TAXES ONLY)

SEPTEMBER 6, 2005

OCTOBER 11, 2005

NOVEMBER 1, 2005

DECEMBER 6, 2005

JUDGE WALTER

APPROVED DATES:

JUNE 21, 2005

JULY 26, 2005

AUGUST 23, 2005

AUGUST 31, 2005 (1:30 P.M. - TAXES ONLY)

SEPTEMBER 27, 2005

OCTOBER 18, 2005

NOVEMBER 15, 2005

DECEMBER 20, 2005

Forms

Available Forms:

Standard Plan 2004 - ([Word](#), [Right-Click to Download](#)) ([Pdf](#)) [test](#)

Application to Sell or Dispose of Personal Property - ([Word Perfect](#)) ([Adobe PDF](#)) ([Html](#))

Blank Proof of Claim and Instructions (Version 1) - [Blank POC PDF](#) [POC Instructions PDF](#)

Business Income and Expenses ([Word Perfect](#)) ([Adobe PDF](#))

Debtor's Red Book (Blank) - ([Word Perfect](#)) ([Adobe PDF](#)) ([Html](#))

Motion and Order to Cease Pension Loan Deduction - ([Word Perfect](#)) ([Adobe PDF](#))

Modification - ([Word Perfect](#)) ([PDF](#))

App. to Incur Credit - ([Word Perfect](#)) ([PDF](#))

[Website Access Agreement](#) (13 Network on-line case data)

[Special Counsel Forms](#) ([Word](#)) ([PDF](#))

Newsletter

Newsletters are available here!



Chapter 13

Trustee's Corner



Bankruptcy Legislation

The President signed the Bankruptcy Abuse Prevention and Consumer Protection Acts of 2003 ("BAPCPA") on April 20, 2005. This Act causes the most substantial changes to the Bankruptcy Code since the Code was enacted in 1978. The majority of changes go into effect October 17, 2005, but some changes, (i.e., the exemptions) went into effect upon the signing by the President on April 20, 2005. The majority of amendments do not apply in pending bankruptcy cases but will apply in cases filed on or after October 17, 2005. You will need to know the existing Code and the new Act amendments as you will have cases using each for several more years.

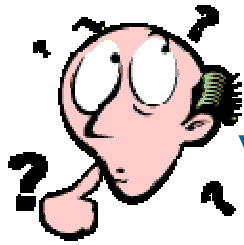
Several major changes include the Rule 9011 Verification, which requires the Debtor's attorney to have made "reasonable inquiry to verify that the information contained in such document is, (1) well grounded in fact; and (2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law." In other words, Debtor and attorney have the responsibility to verify the factual accuracy and legal basis for everything contained in the schedules and statement.

BAPCPA also requires all individual Debtors to obtain credit counseling from an approved (by the U.S.T) nonprofit budget and credit counseling agency prior to filing. Further, a Debtor must complete a personal financial management course prior to receiving a discharge. There are additional requirements for notices to creditors, and the automatic stay protection is extremely eroded. A "means" test determines if the Debtor is eligible for Chapter 7, and the state medium income is an important factor for determining the length of the Debtor's Chapter 13 Plan. The Internal Revenue Service standards for certain expenses become a factor.

Altogether, there are more than 100 major changes and increased attorney liability is a result of many of these changes. Before October 17, 2005, make sure you have attended as many seminars as possible to learn the new Act. Speaking of seminars, mark Friday, September 9th for the Chapter 13 Seminar on the new legislation.

Jeffrey M. Kellner
Chapter 13 Trustee

New Legislation Questions???



We Have Answers.



MARK YOUR CALENDERS FOR

FRIDAY, SEPTEMBER 9, 2005



Office of the Chapter 13 Trustee

131 North Ludlow Street Suite 900
Dayton, OH 45402-1161

937-222-7600
937-222-7383



Jeffrey M. Kellner
Chapter 13 Trustee

We're on the web:
www.dayton13.com